The Ontario Securities Commission

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Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Notice of Ministerial Approval of Amendments to Ontario Securities Commission Rule 13-502 Fees and Ontario Securities Commission Rule 13-503 (Commodity Futures Act) Fees

NOTICE OF MINISTERIAL APPROVAL OF AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 13-502 *FEES* AND
ONTARIO SECURITIES COMMISSION RULE 13-503 *(COMMODITY FUTURES ACT) FEES*

On February 6, 2017, the Minister of Finance approved amendments (the **Amendments**) made by the Ontario Securities Commission (**OSC** or the **Commission**) to Ontario Securities Commission Rule 13-502 *Fees* and Ontario Securities Commission Rule 13-503 (*Commodity Futures Act*) *Fees*.

The Amendments were made by the Commission on December 6, 2016.

The Amendments were published on the OSC website at http://www.osc.gov.on.ca and in the OSC Bulletin at (2016), 39 OSCB 10197 on December 15, 2016.

The Amendments come into force on March 1, 2017.

The text of the Amendments is reproduced in Chapter 5 of this Bulletin.

1.1.2 Notice of Ministerial Approval of Amendments to National Instrument 81-102 Investment Funds and National Instrument 81-101 Mutual Fund Prospectus Disclosure

NOTICE OF MINISTERIAL APPROVAL OF AMENDMENTS TO
NATIONAL INSTRUMENT 81-102 I*NVESTMENT FUNDS*
AND
NATIONAL INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE*

On February 6, 2017, the Minister of Finance approved the amendments to National Instrument 81-102 *Investment Funds* and the related consequential amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (the Rule Amendments) made by the Ontario Securities Commission (the Commission) on October 18, 2016.

On October 18, 2016, the Commission also adopted changes to Companion Policy 81-101CP to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (the Policy Changes).

The Rule Amendments and the Policy Changes (collectively, the Amendments) have an effective date of September 1, 2017. The Amendments were previously published in the Bulletin in the OSC Bulletin in (2016), 39 OSCB 9915 on December 8, 2016.

The text of the Rule Amendments is republished in Chapter 5 of this Bulletin.

1.1.3 Notice of Ministerial Approval of Amendments to National Instrument 41-101 General Prospectus Requirements and National Instrument 81-106 Investment Fund Continuous Disclosure

NOTICE OF MINISTERIAL APPROVAL OF AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*
AND
NATIONAL INSTRUMENT 81-106 *INVESTMENT FUND CONTINUOUS DISCLOSURE*

On October 18, 2016 the Ontario Securities Commission (the Commission) made amendments to National Instrument 41-101 *General Prospectus Requirements* and related consequential amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure* (the Rule Amendments). On the same date, the Commission also adopted changes to Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements* and Companion Policy 81-106CP to National Instrument 81-106 *Investment Fund Continuous Disclosure* (the Policy Changes).

The above material was published on December 8, 2016 in the Bulletin.

On December 20, 2016, the Commission by way of quorum made a correction to the coming into effect date noted below by referencing “Schedule 28” (as shown below in bold) rather than “Schedule 26”.

As corrected, the Rule Amendments and the Policy Changes have an effective date of March 8, 2017, except for:

(i) the filing requirement for ETF facts documents, which has an effective date of September 1, 2017, and

(ii) the delivery requirement for ETF facts documents, which has an effective date of the later of:

  (a) December 10, 2018, and

  (b) the day on which sections 4, 14 and 17 of **Schedule 28** to the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* (Ontario) are proclaimed into force.

On February 2, 2017, a corrected sample ETF facts document (part of Companion Policy 41-101CP) was published in the Bulletin.

On February 6, 2017, the Minister of Finance approved the Rule Amendments, as corrected to reflect the change noted above.

The text of the corrected Rule Amendments is published in Chapter 5 of this Bulletin.

1.1.4 Notice of Ministerial Approval of the Multilateral Arrangement for Regulatory, Supervisory and Oversight Cooperation on LCH.Clearnet Ltd

**NOTICE OF MINISTERIAL APPROVAL OF
THE MULTILATERAL ARRANGEMENT FOR
REGULATORY, SUPERVISORY AND OVERSIGHT COOPERATION ON
LCH.CLEARNET LTD**

On January 20, 2017, the Minister of Finance approved, pursuant to section 143.10 of the *Securities Act* (Ontario), the Multilateral Arrangement for Regulatory, Supervisory and Oversight Cooperation on LCH.Clearnet Ltd ("LCH") entered into with the Bank of England and other authorities with a regulatory interest in LCH ("Multilateral Arrangement"). The objective of the Multilateral Arrangement is to enhance, through discussion, consultation and disclosure of information between authorities, the regulation of LCH.

The Multilateral Arrangement came into effect on February 14, 2017. The Multilateral Arrangement was published in the Bulletin on December 8, 2016 at (2016), 39 OSCB 10108.

Questions may be referred to:

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1.5 Notices from the Office of the Secretary

1.5.1 Black Panther Trading Corporation and Charles Robert Goddard

FOR IMMEDIATE RELEASE
February 14, 2017

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
BLACK PANTHER TRADING CORPORATION and
CHARLES ROBERT GODDARD

TORONTO – The Commission issued an Order in the above named matter which provides that:

1. Staff shall serve and file written submissions on sanctions and costs on or before February 27, 2017;

2. the Respondents shall serve and file written submissions on sanctions and costs on or before March 13, 2017;

3. Staff shall serve and file written reply submissions, if any, on sanctions and costs on or before March 20, 2017; and

4. no further written submissions shall be filed.

A copy of the Order dated February 13, 2017 is available at www.osc.gov.on.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 CI Investments Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Existing relief from paragraphs 2.5(2)(a) and 2.5(2)(c) of NI 81-102 to invest in pooled funds revoked and replaced to allow a mutual fund to invest up to 10% of its net asset value in aggregate in underlying pooled funds – Exemption granted on the basis that the pooled funds will comply with Part 2 of NI 81-102 and other requirements of NI 81-102 and NI 81-106.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.5(2)(a) and (c), 19.1.

February 8, 2017

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
CI INVESTMENTS INC.
(the Filer)
AND
THE PORTFOLIO SERIES FUNDS AND
CI GLOBAL MANAGERS CORPORATE CLASS

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) for an exemption, pursuant to section 19.1 of National Instrument 81-102 Investment Funds (**NI 81-102**), from:

   i. the prohibition contained in paragraph 2.5(2)(a) of NI 81-102 against a mutual fund investing in another mutual fund that is not subject to NI 81-102 and National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**); and

   ii. the prohibition contained in paragraph 2.5(2)(c) of NI 81-102 against a mutual fund investing in another mutual fund's securities where those securities are not qualified for distribution in the local jurisdiction (together with paragraph (i) above, the **Requested Relief**)

   to permit:

(a) each of the Portfolio Series Funds (the **Existing Portfolio Series Top Funds**) and any future top funds managed by the Filer (or an affiliate of the Filer) with similar investment objectives to the Existing Portfolio Series Top Funds (the **Future Portfolio Series Top Funds**) to invest up to 10% of its net assets, taken at market value at the time of the investment, in aggregate, in CI Cambridge All Canadian Equity Fund (the **All Canadian Pool**), CI Cambridge Large Cap Canadian Equity Fund (the **Large Cap Canadian Pool**) and CI Cambridge International Equity Fund (the **International Equity Pool**); and

(b) CI Global Managers Corporate Class and any future top funds managed by the Filer (or an affiliate of the Filer) with similar objectives to the CI Global Managers Corporate Class (the **Future Global Managers Top Funds**) to invest up to 10% of its net assets, taken at market value at the time of the investment, in CI Cambridge Global Equity Fund (the **Global Equity Pool**), and

b) to revoke the Prior CII Decision (as defined below) (the **Revocation**).

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

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

(b) the Filer has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut (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. The following additional terms shall have the following meanings:

Canadian Equity Pools means the All Canadian Pool and the Large Cap Canadian Pool.

Existing Top Funds means the Existing Portfolio Series Top Funds and CI Global Managers Corporate Class.

Prior Underlying Pools means the All Canadian Pool, the International Equity Pool and the Global Equity Pool.

Top Funds means the Existing Portfolio Series Top Funds, the Future Portfolio Series Top Funds, CI Global Managers Corporate Class and Future Global Managers Top Funds. They are referred to collectively as the Top Funds and, individually, as a Top Fund.

Underlying Pools means the Canadian Equity Pools, the International Equity Pool and the Global Equity Pool.

Representations

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

The Filer

1. The Filer is a corporation subsisting under the laws of the Province of Ontario with its head office located in Toronto, Ontario. The Filer is registered as follows:

   (a) under the securities legislation of all provinces as a portfolio manager;

   (b) under the securities legislation of Ontario, Québec, and Newfoundland and Labrador as an investment fund manager;

   (c) under the securities legislation of Ontario as an exempt market dealer; and

   (d) under the *Commodity Futures Act* (Ontario) as a commodity trading counsel and a commodity trading manager.

2. The Filer is not in default of securities legislation in any Jurisdiction, except with respect to a registration matter in certain Jurisdictions for which registration applications have since been filed.

3. The Filer is, or will be, the manager of each Top Fund and Underlying Pool.

Prior CII Decision

4. Pursuant to a decision dated July 7, 2016 (the **Prior CII Decision**), the Filer, as manager of the Top Funds and Prior Underlying Pools, was granted exemptive relief from the prohibitions contained in paragraphs 2.5(2)(a) and 2.5(2)(c) of NI 81-102 to permit:

   (a) each of the Existing Portfolio Series Top Funds and any Future Portfolio Series Top Funds to invest up to 10% of its net assets, taken at market value at the time of the investment, in aggregate, in the All Canadian Pool and the International Equity Pool; and

   (b) CI Global Managers Corporate Class and any Future Global Managers Top Funds to invest up to 10% of its net assets, taken at market value at the time of the investment, in aggregate, in the Global Equity Pool.

5. The Prior CII Decision permitted each of the Existing Portfolio Series Top Funds and any Future Portfolio Series Top Funds to invest in the All Canadian Pool in order to gain the necessary Canadian equity exposure to achieve their optimal asset mix. As there could be limitations on the ability of the Existing Portfolio Series Top Funds and the Future Portfolio Series Top Funds to make an investment in the All Canadian Pool, the Filer is seeking that the Prior CII Decision be revoked and replaced by the Requested Relief in order to permit investments in the Large Cap Canadian Pool on the same terms as applicable in the Prior CII Decision.

6. The Large Cap Canadian Pool, like the All Canadian Pool, is a 100% Canadian equity mandate. The only material difference between the funds is that the investment objective of the Large Cap Canadian Pool requires it to focus on investing in companies considered to have a large market capitalization, whereas the All Canadian Pool is not subject to such restriction. The Large Cap Canadian Pool may, however, invest up to 40% of its net asset value in mid-cap companies.

The Top Funds

7. Each Top Fund is, or will be, a “mutual fund”, as such term is defined under the *Securities Act* (Ontario) (the **Act**), and to which NI 81-102 applies.

8. Each Top Fund has, or will have, a simplified prospectus and annual information form prepared in accordance with NI 81-101, is, or will be, qualified for distribution in the Jurisdictions and is, or will be, a reporting issuer under the securities legislation of each Jurisdiction.

9. None of the Existing Top Funds are in default of securities legislation in any Jurisdiction.

10. The Existing Portfolio Series Top Funds are fund-of-funds whose investment objectives limit them to investing in securities of other mutual funds. They invest mainly in securities of other mutual funds managed by the Filer.

11. The investment objective of CI Global Managers Corporate Class is to obtain maximum long-term capital growth. It invests primarily in equity and equity-related securities of companies around the world. Its investment strategy allows it to obtain exposure, on some or all of its assets, to securities of other mutual funds.

12. Subject to compliance with NI 81-102, the investment objectives and strategies of each Top Fund would permit the Top Fund to invest in the Underlying Pools.

The Underlying Pools

13. Each Underlying Pool is an open-ended pooled fund, governed under the laws of Ontario and under a Second Amended and Restated Declaration of Trust, dated June 26, 2014, as amended from time-to-time.

14. Each Underlying Pool is available for purchase only by institutional investors who meet the definition of an “accredited investor” as set forth in National Instrument 45-106 *Prospectus Exemptions* and/or the Act, including other mutual funds managed by the Filer.

15. None of the Underlying Pools have issued a simplified prospectus or annual information form prepared in accordance with NI 81-101.

16. None of the Underlying Pools are subject to NI 81-102.

17. None of the Underlying Pools are reporting issuers in any of the Jurisdictions.

18. While not subject to NI 81-102, the investment strategies and restrictions of each Underlying Pool are consistent with NI 81-102, and the Filer has managed each Underlying Pool in accordance with NI 81-102, as if it were applicable.

Existing Portfolio Series Top Funds' investments in the Canadian Equity Pools

19. The Filer believes that the ability for the Existing Portfolio Series Top Funds to invest in the Canadian Equity Pools is consistent with the Existing Portfolio Series Top Funds' investment objectives and strategies. While it may be possible for the Existing Portfolio Series Top Funds to gain exposure to Canadian equities by investing in other mandates, it is in the funds' best interests to have the ability to invest in units of the Canadian Equity Pools. This is because the alternatives available to the Filer are not optimal relative to investing in the Canadian Equity Pools.

20. The Existing Portfolio Series Top Funds have a Canadian equity component as part of their optimal asset mix. The Filer believes that the most economically-efficient and strategic way to obtain the desired exposure to a Canadian equity mandate is to invest in a fund that is focused exclusively on Canadian equities. Currently, Canadian equity prospectus-qualified mutual funds managed by the Filer have approximately between 25-45% foreign content which, although permitted by its investment objectives, makes it difficult for the Existing Portfolio Series Top Funds to gain the necessary Canadian equity exposure in order to achieve the optimal asset mix. The Canadian Equity Pools each have a pure Canadian equity mandate, an investment in which would permit the Existing Portfolio Series Top Funds to more easily manage their Canadian equity exposure to achieve optimal asset mix and their investment objectives.

21. The Filer has determined that passive exchange-traded funds (**ETFs**) generally have greater exposure to the financial and resource sectors than the Filer considers being in the best interests of the Existing Portfolio Series Top Funds. Moreover, actively-managed ETFs are too costly of an option for such funds and the Filer would need to dedicate additional resources to select from many different ETFs in order to ensure that the Canadian equity component of the funds is invested on a diversified basis with broad exposure in the Canadian market.

Existing Portfolio Series Top Funds' investments in the International Equity Pool

22. The Filer believes that the ability for the Existing Portfolio Series Top Funds to invest in the International Equity Pool is consistent with the Existing Portfolio Series Top Funds' investment objectives and strategies and in the best interests of the Existing Portfolio Series Top Funds' unitholders. The Existing Portfolio Series Top Funds have an international equity component as part of their optimal asset mix and the Filer believes that an investment in the International Equity Pool will allow the Existing Portfolio Series Top Funds to gain exposure to a growth manager on a cost-effective basis.

23. The Filer's view is that passive international ETFs generally have greater exposure to the financial sector than the Filer considers being in the best interests of the Existing Portfolio Series Top Funds for the same reasons as set out in Paragraph 21.

24. The Filer believes that the most economically-efficient and strategic way to obtain the desired exposure to an international equity mandate managed by a growth manager is to invest in a fund that is already diversified and focused on stock selection. The ability to invest the Existing Portfolio Series Top Funds in the International Equity Pool would provide the Filer with such diversity and stock selection benefits and will also allow them to leverage the expertise, research and investment style of the portfolio manager of the International Equity Pool.

CI Global Managers Corporate Class's investment in the Global Equity Pool

25. The Filer believes that the ability for CI Global Managers Corporate Class to invest in the Global Equity Pool is consistent with CI Global Managers Corporate Class's investment objectives and strategies and in the best interests of the CI Global Managers Corporate Class securityholders. The Filer believes that the most economically-efficient and strategic way to obtain the desired exposure to a global equity mandate managed by a growth manager is to invest in a fund that is already diversified and focused on stock selection. The ability to invest CI Global Managers Corporate Class in the Global Equity Pool would provide the Filer with such diversity and stock selection benefits and will also allow it to leverage the expertise, research and investment style of the portfolio manager of the Global Equity Pool.

26. The Underlying Pools are managed by in-house portfolio managers of the Filer, and accordingly, the Filer will benefit from understanding the investment style and approach of its portfolio managers, thereby benefiting the Top Funds.

27. The Underlying Pools are managed in compliance with NI 81-102, and an investment in the Underlying Pools by the Top Funds will not expose the investors of the Top Funds to any investment strategies or risks that they are not currently exposed to by virtue of holding the Top Funds.

28. The Underlying Pools do not utilize leverage, do not short sell and comply generally with the investment and derivative requirements set out in NI 81-102. The Underlying Pools will also comply with the restrictions relating to illiquid securities (section 2.4 of NI 81-102) and investments in other investment funds (section 2.5 of NI 81-102) for so long as they are held by one of the Top Funds.

29. Securities of the Underlying Pools are valued and redeemable on the same dates as securities of the Top Funds. The portfolio of each Underlying Pool will consist primarily of publicly traded securities. Each Underlying Pool will not hold more than 10% of its net asset value in illiquid assets (as defined in NI 81-102). An investment by a Top Fund in an Underlying Pool will be effected based on an objective net asset value, which is calculated in accordance with Part 14 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**), of the Underlying Fund.

30. Each Top Fund will invest no more than 10% of its net assets in the Underlying Pools.

31. The Independent Review Committee of the Top Funds will oversee the purchase of the Underlying Pools pursuant to National Instrument 81-107 – *Independent Review Committee for Investment Funds*.

32. The Top Funds will otherwise comply fully with section 2.5 of NI 81-102 in its investments in the Underlying Pools and will provide all applicable disclosure mandated for mutual funds investing in other mutual funds.

33. Where applicable, a Top Fund's investment in an Underlying Pool will be disclosed to investors in that Top Fund's quarterly portfolio holding reports, financial statements and/or fund facts document.

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 Requested Relief is granted provided that:

(i) the Underlying Pools each comply with Parts 2, 4 and 6 of NI 81-102 and Part 14 of NI 81-106 for so long as it is held by one of the Top Funds;

(ii) the prospectus of the Top Funds discloses, or will disclose at the next renewal or amendment thereto, that they may invest in each respective Underlying Pool, which is a pooled fund managed by the Filer; and

(iii) a Top Fund will not invest in an Underlying Pool if, immediately after the investment, more than 10% of its net assets, in aggregate, taken at market value at the time of the investment, would consist of investments in the Underlying Pools.

"Vera Nunes"
Manager, Investment Funds & Structured Products Branch
Ontario Securities Commission

2.1.2 American Hotel Income Properties REIT LP

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 – BAR – An issuer requires relief from the requirement to file a business acquisition report – The acquisition is insignificant applying the asset and investment tests; applying the profit or loss test produces an anomalous results because the significance of the acquisition under this test is disproportionate to its significance on an objective basis in comparison to the results of the other significance tests and all other business, commercial, financial and practical factors; the filer has provided additional measures that demonstrate the insignificance of the property to the filer and that are generally consistent with the results when applying the asset and investment tests

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, s. 13.1.

January 23, 2017

**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
AMERICAN HOTEL INCOME PROPERTIES REIT LP
(the Filer)**

DECISION

Background

1 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) granting relief from the requirement in Part 8 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) to file a business acquisition report (BAR) in connection with the Filer's acquisition of a portfolio of six branded, select-service hotels located in Florida (the Florida 6 Portfolio) on November 29, 2016 (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 section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut, and

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

Interpretation

2 Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 51-102 have the same meaning if used in this decision, unless otherwise defined in this decision.

Representations

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

The Filer

1. the Filer is an Ontario limited partnership established under the laws of the Province of Ontario pursuant to a declaration of limited partnership and its head office is located in Vancouver, British Columbia;

2. the Filer is a reporting issuer under the securities legislation of each of the provinces and territories of Canada;

3. the limited partnership units of the Filer are listed and posted for trading on the Toronto Stock Exchange under the trading symbol "HOT.UN";

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

5. the Filer is in the business of indirectly acquiring hotel properties substantially in the United States;

6. from its February 20, 2013 initial public offering and several subsequent bought deals, the Filer has raised over Cdn$450 million in gross proceeds, the net proceeds of which have been used by the Filer to, among other things, partially finance its indirect acquisition of 91 hotel properties in the United States (including the Florida 6 Portfolio);

The Acquisition

7. on November 29, 2016, the Filer acquired the Florida 6 Portfolio for a total gross purchase price of US$61.0 million, excluding approximately USD$10.6 million for brand mandated property improvement plans and before customary closing and post-closing acquisition adjustments;

8. the acquisition of the Florida 6 Portfolio constitutes a "significant acquisition" of the Filer for the purposes of Part 8 of NI 51-102, requiring the Filer to file a BAR within 75 days of the acquisition pursuant to section 8.2(1) of NI 51-102;

Significance Tests for the BAR

9. under Part 8 of NI 51-102, the Filer is required to file a BAR for any completed acquisition that is determined to be significant based on the acquisition satisfying any of the three significance tests set out in section 8.3(2) of NI 51-102;

10. the acquisition of the Florida 6 Portfolio is not a significant acquisition under the asset test in section 8.3(2)(a) of NI 51-102 as the value of the Florida 6 Portfolio represented only approximately 10.6% of the consolidated assets of the Filer as of December 31, 2015;

11. the acquisition of the Florida 6 Portfolio is not a significant acquisition under the investment test in section 8.3(2)(b) of NI 51-102 as the Filer's acquisition costs represented only approximately 10.6% of the consolidated assets of the Filer as of December 31, 2015;

12. the acquisition of the Florida 6 Portfolio would, however, be a significant acquisition under the profit or loss test in section 8.3(2)(c) of NI 51-102; in particular, the Filer's proportionate share of the consolidated specified profit or loss of the Florida 6 Portfolio exceeds 20% of the consolidated specified profit or loss of the Filer calculated using audited annual financial statements of the Filer and unaudited annual financial information for the Florida 6 Portfolio, in each case, for the year ended December 31, 2015;

13. the application of the profit or loss test produces an anomalous result for the Filer because it exaggerates the significance of the Acquisition out of proportion to its significance on an objective basis in comparison to the results of the asset test and investment test;

De Minimis Acquisition

14. the Filer does not believe (nor did it at the time that it made the acquisition) that the acquisition of the Florida 6 Portfolio is significant to it from a commercial, business, practical or financial perspective; and

15. the Filer has provided the principal regulator with additional operational measures that demonstrate the non-significance of the acquisition of the Florida 6 Portfolio to the Filer; these additional operational measures compared other operational information such as net operating income, revenue and number of rooms for the Florida 6 Portfolio to that of the Filer, and the results of those measures are generally consistent with the results of the asset test and the investment test.

Decision

4 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.

"Peter Brady"
Executive Director
British Columbia Securities Commission

2.1.3 Chicago Mercantile Exchange Inc. – s. 42 of OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting

Headnote

Chicago Mercantile Exchange Inc. – OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking relief from requirements to publicly disseminate transaction level data 48 hours from the execution time stamp – relief granted, subject to conditions.

DIRECTOR'S EXEMPTION

IN THE MATTER OF
CHICAGO MERCANTILE EXCHANGE INC.

DECISION
(Section 42 of Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting)

WHEREAS Chicago Mercantile Exchange Inc. (the "**Applicant**") is a designated trade repository pursuant to an order under section 21.2.2 of the *Securities Act* (Ontario) (the "**Act**") dated September 19, 2014 (the "**Designation Order**") and therefore the Applicant, as a designated trade repository, is subject to obligations under Ontario Securities Commission ("**OSC**" or the "**Commission**") Rule 91-507 *Trade Repositories and Derivatives Data Reporting* ("**OSC Rule 91-507**");

AND UPON the application of the Applicant to the Director (as such term is defined in section 1 of the Act) for an order pursuant to Section 42 of OSC Rule 91-507 exempting the Applicant from the requirements under subsection 39(3) and item 7 of Appendix C of OSC Rule 91-507 for a designated trade repository to publicly disseminate prescribed transaction-level data for certain derivatives, 48 hours after the time and date represented by the execution timestamp field of the transaction (the "**48-Hour Dissemination Requirement**");

AND UPON the Applicant having represented to the Director that:

1. the Applicant is a corporation organized under the laws of the State of Delaware in the United States and is a wholly owned subsidiary of CME Group Inc. ("**CMEG**");

2. CMEG is a publicly traded for-profit corporation organized under the laws of Delaware and listed for trading on the NASDAQ Global Select Market and is the ultimate parent company of the Applicant;

3. the Applicant provides trade repository services in Ontario pursuant to the Designation Order and is subject to requirements and obligations applicable to designated trade repositories under OSC Rule 91-507 and to the terms and conditions that are set out in Schedule "A" of the Designation Order;

4. the Applicant accepts derivatives transaction data required to be reported under the OSC Rule 91-507 for credit, interest rate, commodity and foreign exchange asset classes;

5. as prescribed in Appendix C to OSC Rule 91-507, the Applicant is required to publicly disseminate transaction-level data for certain derivatives (the "**Disseminated Transactions**") in compliance with the 48-Hour Dissemination Requirement;

6. in order to publicly disseminate the Disseminated Transactions and comply with the 48-Hour Dissemination Requirement, the Applicant relies on technology infrastructure and resources that are shared across the whole of its organization (the "**Applicant's Systems**");

7. the Applicant's Systems, including the technology infrastructure and resources used to publicly disseminate the Disseminated Transactions, require certain periods of non-operation or downtime ("**System Downtime**") to comply with system and operational risk control requirements including the requirements set out in section 21 of OSC Rule 91-507 as well as to allow for regular maintenance, major system upgrades, database patches and emergency fixes, all which are critical for the safe, secure and efficient operation of the Applicant's trade repository services;

8. there are twenty-nine consecutive hours of System Downtime scheduled each week, starting at 1:00 am ET on Saturday until 6:00 am ET on Sunday, affecting the Applicant's Systems;

9. System Downtime can also occur on an *ad hoc* basis; and

10. as a consequence of both scheduled and *ad hoc* System Downtime, the Applicant is from time to time unable to comply with the 48-Hour Dissemination Requirement for certain Disseminated Transactions;

AND UPON the Director being satisfied that exempting the Applicant from the 48-Hour Dissemination Requirement would not be prejudicial to the public interest;

IT IS THE DECISION of the Director that pursuant to section 42 of OSC Rule 91-507, the Applicant is exempted from the 48-Hour Dissemination Requirement when the Applicant is prevented from publicly disseminating a Disseminated Transaction in accordance with the 48-Hour Dissemination Requirement as a direct consequence of System Downtime (the "**Exemption**");

PROVIDED THAT:

1. the Applicant publicly disseminates each Disseminated Transaction that was not publicly disseminated in accordance with the 48-Hour Dissemination Requirement as a direct consequence of System Downtime as soon as practicable following the conclusion of the period of System Downtime that prevented public dissemination of the Disseminated Transaction in accordance with the 48-Hour Dissemination Requirement;

2. beginning in 2018, on the last business day in March of each year, the Applicant provides the Director with an annual written report:

   (a) detailing, on a monthly basis for the preceding 12 months and segregated by asset class, (i) the number of Disseminated Trades that have been delayed from being publicly disseminated in accordance with the 48-Hour Dissemination Requirement and (ii) the average length of the delays that resulted from System Downtime; and

   (b) describing how the Applicant is working to optimize the Applicant's Systems and reduce System Downtime including a description of the impact of any changes made to the Applicant's Systems on the number of Disseminated Transactions delayed from being publicly disseminated in accordance with the 48-Hour Dissemination Requirement as a result of System Downtime; and

3. the Exemption expires five years after the date of this decision.

DATED February 9, 2017

"Kevin Fine"
Director, Derivatives Branch
Ontario Securities Commission

2.1.4 DTCC Data Repository (U.S.) LLC – s. 42 of OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting

Headnote

DTCC Data Repository (U.S.) LLC – OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking relief from requirements to publicly disseminate transaction level data 48 hours from the execution time stamp – relief granted, subject to conditions.

DIRECTOR'S EXEMPTION

IN THE MATTER OF
DTCC DATA REPOSITORY (U.S.) LLC

DECISION
(Section 42 of Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting)

WHEREAS DTCC Data Repository (U.S.) LLC (the "**Applicant**") is a designated trade repository pursuant to an order under section 21.2.2 of the *Securities Act* (Ontario) (the "**Act**") dated September 19, 2014 (the "**Designation Order"**) and therefore the Applicant, as a designated trade repository, is subject to obligations under Ontario Securities Commission ("**OSC**" or the "**Commission**") Rule 91-507 *Trade Repositories and Derivatives Data Reporting* ("**OSC Rule 91-507**");

AND UPON the application of the Applicant to the Director (as such term is defined in section 1 of the Act) for an order pursuant to section 42 of OSC Rule 91-507 exempting the Applicant from the requirements under subsection 39(3) and item 7 of Appendix C of OSC Rule 91-507 for a designated trade repository to publicly disseminate prescribed transaction-level data for certain derivatives, 48 hours after the time and date represented by the execution timestamp field of the transaction (the "**48-Hour Dissemination Requirement**");

AND UPON the Applicant having represented to the Director that:

1. the Applicant is a limited liability company organized under the laws of New York;

2. the Applicant provides trade repository services in Ontario pursuant to the Designation Order and is subject to requirements and obligations applicable to designated trade repositories under OSC Rule 91-507 and to the terms and conditions that are set out in Schedule "A" of the Designation Order;

3. the Applicant accepts derivatives transaction data required to be reported under the OSC Rule 91-507 for credit, equity, interest rate, commodity and foreign exchange asset classes;

4. as prescribed in Appendix C to OSC Rule 91-507, the Applicant is required to publicly disseminate transaction-level data for certain derivatives (the "**Disseminated Transactions**") in compliance with the 48-Hour Dissemination Requirement;

5. in order to publicly disseminate the Disseminated Transactions and comply with the 48-Hour Dissemination Requirement, the Applicant relies on technology infrastructure and resources (the "**Applicant's Systems**");

6. the Applicant's Systems, including the technology infrastructure and resources used to publicly disseminate the Disseminated Transactions, require certain periods of non-operation or downtime ("**System Downtime**") to comply with system and operational risk control requirements as well as to allow for regular operational maintenance, major system upgrades and system repairs, disaster recovery exercises and exercises related to regulatory obligations all of which are necessary for operating the Applicant's trade repository services in accordance with safe industry standard practices meant to reduce risk to its operations;

7. there are eight consecutive hours of System Downtime scheduled each week, starting at 10:00 pm ET on Saturday until 6:00 am ET on Sunday affecting the Applicant's Systems;

8. System Downtime can also occur on an *ad hoc* basis; and

9. as a consequence of both scheduled and *ad hoc* System Downtime, the Applicant is from time to time unable to comply with the 48-Hour Dissemination Requirement for certain Disseminated Transactions;

AND UPON the Director being satisfied that exempting the Applicant from the 48-Hour Dissemination Requirement would not be prejudicial to the public interest;

IT IS THE DECISION of the Director that pursuant to section 42 of OSC Rule 91-507, the Applicant is exempted from the 48-Hour Dissemination Requirement when the Applicant is prevented from publicly disseminating a Disseminated Transaction in accordance with the 48-Hour Dissemination Requirement as a direct consequence of System Downtime (the "**Exemption**");

PROVIDED THAT:

1. the Applicant publicly disseminates each Disseminated Transaction that was not publicly disseminated in accordance with the 48-Hour Dissemination Requirement as a direct consequence of System Downtime as soon as practicable following the conclusion of the period of System Downtime that prevented public dissemination of the Disseminated Transaction in accordance with the 48-Hour Dissemination Requirement;

2. beginning in 2018, on the last business day in March of each year, the Applicant provides the Director with an annual written report:

   (a) detailing, on a monthly basis for the preceding 12 months and segregated by asset class, (i) the number of Disseminated Trades that have been delayed from being publicly disseminated in accordance with the 48-Hour Dissemination Requirement and (ii) the average length of the delays that resulted from System Downtime; and

   (b) describing how the Applicant is working to optimize the Applicant's Systems and reduce System Downtime including a description of the impact of any changes made to the Applicant's Systems on the number of Disseminated Transactions delayed from being publicly disseminated in accordance with the 48-Hour Dissemination Requirement; and

3. the Exemption expires five years after the date of this decision.

DATED February 9, 2017

"Kevin Fine"
Director, Derivatives Branch
Ontario Securities Commission

2.1.5 Credit Suisse Securities (USA) LLC and Credit Suisse Prime Securities Services (USA) LLC

Headnote

U.S. registered broker dealer exempted from dealer registration under paragraph 25(1) of the Act for provision of prime brokerage services – relief limited to trades in Canadian securities for institutional permitted clients – relief is subject to sunset clause.

Applicable Legislative Provisions

Statutes Cited

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

Instruments Cited

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 8.5, 8.18, 8.21.
National Instrument 81-102 Investment Funds.

February 13, 2017

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
CREDIT SUISSE SECURITIES (USA) LLC AND
CREDIT SUISSE PRIME SECURITIES SERVICES (USA) LLC
(the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers (the **Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filers from dealer registration under section 25(1) of the *Securities Act* (Ontario) (the **Act**) in respect of Prime Services (as defined below) relating to securities of Canadian issuers and that are provided in Canada to Institutional Permitted Clients (as defined below) (the **Exemption Sought**).

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

(a) the Ontario Securities Commission (**OSC**) is the principal regulator for this Application, and

(b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada in which the applicable Filer relies on the exemption found in section 8.18 [*International dealer*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) other than the province of Alberta (the **Passport Jurisdictions** and together with the Jurisdiction, 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.

For the purposes of this decision, the following term has the following meaning:

"Institutional Permitted Client" shall mean a "permitted client" as defined in section 1.1 of NI 31-103, except for: (a) an individual, (b) a person or company acting on behalf of a managed account of an individual, (c) a person or company referred to in paragraph (p) of that definition unless that person or company qualifies as an Institutional Permitted Client under another paragraph of that definition, or (d) a person or company referred to in paragraph (q) of that definition unless that person or company has net assets of at least $100 million as shown on its most recently prepared financial statements or qualifies as an Institutional Permitted Client under another paragraph of that definition.

Representations

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

1. Credit Suisse Securities (USA) LLC (**CSSU**) is a limited liability company formed under the laws of the State of Delaware. The head office of CSSU is located at 11 Madison Avenue, New York, New York, 10010, United States of America. CSSU is a wholly owned subsidiary of Credit Suisse (USA), Inc., a Delaware corporation, and an indirect wholly owned subsidiary of Credit Suisse Group AG, a Swiss corporation.

2. CSSU is registered as a broker-dealer with the United States (**U.S.**) Securities and Exchange Commission (**SEC**) and is a member of the Financial Industry Regulatory Authority (**FINRA**). This registration and membership permits CSSU to provide Prime Services (as defined below) in the U.S.

3. CSSU is a member of a number of major securities exchanges, including the NASDAQ OMX, the Chicago Stock Exchange, NYSE Euronext (NYSE), and the Philadelphia Stock Exchange. CSSU is a Foreign Approved Participant of the Montreal Exchange and a Trading Participant of ICE Futures Canada, Inc. CSSU is also a member of the CME Group (including the Chicago Board of Trade), ICE Futures U.S., Inc., and other principal U.S. commodity exchanges, and trades through affiliated or unaffiliated member firms on all other exchanges, including exchanges in Canada, France, Italy, Japan, Singapore, Spain, Taiwan, Mexico, Korea and the United Kingdom.

4. CSSU provides a variety of capital raising, investment banking, market making, brokerage, and advisory services, including fixed income and equity sales and research, commodities trading, foreign exchange trading, emerging markets activities, securities lending, investment banking and derivatives dealing for governments, corporate and financial institutions. CSSU's prime services unit provides the following services: facilitates multi-currency financing, clearance, settlement and custody of securities transactions, structured finance, securities lending, capital introductions, start-up consulting, and risk management. CSSU also conducts proprietary trading activities.

5. CSSU provides trade execution services and Prime Services (defined below) through two different business units and the two business units are separated by information barriers. CSSU relies on section 8.18 [*International dealer*] of NI 31-103 to provide trade execution services in respect of "foreign securities" as defined in that section. CSSU also relies on the exemptions found in section 8.5 [*Trades through or to a registered dealer*], in paragraphs (a), (b) and (f) of subsection 8.18(2) [*International dealer*], and in section 8.21 [*Specified debt*] of NI 31-103 to provide limited trade execution services in respect of securities of Canadian issuers.

6. Credit Suisse Prime Securities Services (USA) LLC (**CSPSS**) is a limited liability company formed under the laws of the State of Delaware. The head office of CSPSS is also located at 11 Madison Avenue, New York, New York, 10010, United States of America. CSPSS is also a wholly owned subsidiary of Credit Suisse (USA), Inc., a Delaware corporation, and an indirect wholly owned subsidiary of Credit Suisse Group AG, a Swiss corporation.

7. CSPSS is registered as a broker-dealer with the SEC and is a member of FINRA. This registration and membership permits CSPSS to engage in securities lending and borrowing in the U.S.

8. "Prime Services" provided by CSSU principally consists of the following: (a) settlement, clearing and custody of trades; (b) financing of long inventory; (c) securities borrowing and/or lending pursuant to a securities lending agreement or delivering securities on behalf of a client pursuant to a margin agreement, in each case, to facilitate client short sales; and (d) reporting of positions, margin and other balances and activity. For greater clarity, Prime Services do not include execution of trades in securities.

9. CSPSS was established for the sole express purpose of engaging in and the "Prime Services" provided by CSPSS are securities lending and borrowing to counterparties, and CSPSS only provides this service. CSPSS is not a member of any securities exchanges. CSPSS does not make proprietary investments or engage in market making activities.

10. The Filers provide or wish to provide Prime Services in the Jurisdictions to Institutional Permitted Clients (the **Prime Services Clients**).

11. In the case of a Prime Services Client that is an investment fund subject to Part 6 of National Instrument 81-102 *Investment Funds* (**NI 81-102**), the custodianship requirements in Part 6 of NI 81-102 would only permit CSSU to provide Prime Services to the investment fund as a sub-custodian of the investment fund in respect of portfolio assets held outside Canada.

12. Prime Services Clients seek Prime Services from the Filers in order to separate the execution of a trade from the clearing, settlement, custody and financing of a trade. This allows the Prime Services Client to use many executing brokers, without maintaining an active, ongoing custody account with each executing broker. It also allows the Prime Services Client to consolidate settlement, clearing, custody and financing of securities in an account with the Filers.

13. The Filers' Prime Services Clients directly select their executing brokers. The Filers do not require their Prime Services Clients to use specific executing brokers through which Prime Services Clients must execute trades. Prime Services Clients send trade orders to the executing broker who carries out the trade. The executing broker will be an appropriately registered dealer or a person or company relying on an exemption from dealer registration that permits such executing broker to execute the trade for Prime Services Clients.

14. The Filers provide the Prime Services after the execution of the trade, but any commitment to provide financing or to lend or borrow securities in relation to a trade may be made prior to the execution of the trade. The executing broker will communicate trade details to a Prime Services Client and CSSU or CSSU's clearing agent, if applicable. A Prime Services Client will also communicate trade details to CSSU. Where CSPSS is lending securities to the Prime Brokerage Client, CSPSS provides CSSU with the securities borrowed against the collateral. For trades executed on a Canadian marketplace, CSSU will typically need to clear and settle the trades through a participant of the Canadian depository, clearing and settlement hub, CDS Clearing and Depository Services Inc. (**CDS**). CSSU is a direct participant of CDS.

15. CSSU exchanges money or securities and holds the money or securities in an account for its Prime Services Client. If CSSU is clearing and settling the trade through a clearing agent, CSSU's clearing agent exchanges money or securities and holds the money or securities in an omnibus account for CSSU, which in turn maintains a record of the position held for the Prime Services Client on its books and records.

16. On or following settlement, the Filers provide the other Prime Services set out in paragraph 8 and 9.

17. The Filers enter into written agreements with all of their Prime Services Clients for the provision of Prime Services.

18. On September 2, 2011, in CSA Staff Notice 31-327 *Broker-Dealer Registration in the Exempt Market Dealer Category*, the Canadian Securities Administrators (**CSA**) stated that they had concerns with firms applying for registration in and with firms registered in the category of exempt market dealer (**EMD**) who were carrying on brokerage activities, including trading listed securities.

19. CSSU was registered as an EMD in the ten Canadian provinces.

20. Credit Suisse Securities (Europe) Limited (**CSSE**) was registered as an EMD in Ontario.

21. CSPSS was not and is not registered under the securities laws of Canada and has not previously provided Prime Services in the Jurisdictions.

22. On February 7, 2013, in CSA Staff Notice 31-333 *Follow-up to Broker-Dealer Registration in the Exempt Market Dealer Category*, the CSA stated that they would be publishing amendments to NI 31-103 that would prohibit exempt market dealers from trading in a security if the security is listed, quoted or traded on a marketplace and if the trade in the security does not require reliance on a further exemption from the prospectus requirement (the **Rule Amendments**).

23. The Rule Amendments came into effect on July 11, 2015. At that time, CSSE ceased to conduct activities under its EMD registration, including Prime Services, and its Prime Services Clients were transferred to CSSU. Both CSSE and CSSU surrendered their EMD registrations. Since the implementation of the Rule Amendments, only investment dealers that are dealer members of the Investment Industry Regulatory Organization of Canada (**IIROC**) or firms relying on an applicable exemption from the dealer registration requirement are permitted to engage in trading in a security if the security is listed, quoted or traded on a marketplace and if the trade in the security does not require reliance on a further exemption from the prospectus requirement in the Jurisdictions.

24. The Filers currently rely on the "international dealer exemption" under section 8.18 [*International dealer*] of NI 31-103 in the ten Canadian provinces to provide Prime Services in respect of "foreign securities" as defined in section 8.18 of NI 31-103. CSSU also relies on the "international adviser exemption" as set out in section 8.26 [*International adviser*] under NI 31-103 in the ten Canadian provinces and on the "permitted client non-resident investment fund manager"

exemption under Part 2 of Multilateral Instrument 32-102 *Registration Exemptions for Non-Resident Investment Fund Managers* in Ontario and Quebec for the other services it provides.

25. The Filers are not registered under NI 31-103, are in the business of trading, and in the absence of the Exemption Sought, cannot provide the full range of Prime Services in the Jurisdictions in respect of securities of Canadian issuers without registration, except as permitted under section 8.5 [*Trades through or to a registered dealer*], under the exemptions found in paragraphs (a), (b) and (f) of subsection 8.18(2) [*International dealer*], and under section 8.21 [*Specified debt*] of NI 31-103.

26. The Filers are subject to regulatory capital requirements under the *Securities Exchange Act of 1934* (the **1934 Act**), specifically SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers* (**SEC Rule 15c3-1**) and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers* (**SEC Rule 17a-5**).

27. SEC Rule 15c3-1 requires that the Filers account for any guarantee of debt of a third party in calculating their excess net capital when a loss is probable and the amount can be reasonably estimated. Accordingly, the Filers will, in the event that either Filer provides a guarantee of any debt of a third party, take a deduction from net capital when both of the preceding conditions exist. Neither Filer guarantees the debt of any third party.

28. SEC Rule 15c3-1 is designed to provide protections that are substantially similar to the protections provided by the capital formula requirements and specifically risk adjusted capital to which dealer members of IIROC are subject, and the Filers are in compliance with SEC Rule 15c3-1 and are in compliance in all material respects with SEC Rule 17a-5. If a Filer's net capital declines below the minimum amount required, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 17a-11 *Notification Provisions for Brokers and Dealers* (**SEC Rule 17a-11**). The SEC and FINRA have the responsibility to provide oversight over the Filers' compliance with SEC Rule 15c3-1 and SEC Rule 17a-5.

29. The Filers are required to prepare and file a financial report, which includes Form X-17a-5 (the **FOCUS Report**) which is the financial and operational report containing a net capital calculation, and a compliance report annually with the SEC and FINRA pursuant to SEC Rule 17a-5(d). The FOCUS Report provides a more comprehensive description of the business activities of the Filers, and more accurately reflects those activities including client lending activity, than would be provided by Form 31-103F1 *Calculation of Excess Working Capital* (**Form 31-103F1**). The net capital requirements computed using methods prescribed by SEC Rule 15c3-1 are based on all assets and liabilities on the books and records of a broker-dealer whereas Form 31-103F1 is a calculation of excess working capital, which is a computation based primarily on the current assets and current liabilities on the books and records of the dealer. The Filers are up-to-date in their respective submissions of annual reports under SEC Rule 17a-5(d), including the FOCUS Report.

30. The Filers are subject to regulations of the Board of Governors of the U.S.A. Federal Reserve Board (**FRB**), the SEC, and FINRA regarding the lending of money, extension of credit and provision of margin to clients (the **U.S. Margin Regulations**) that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of IIROC are subject. In particular, the Filers are subject to the margin requirements imposed by the FRB, including Regulation T and under applicable SEC rules and under FINRA Rule 4210. The Filers are in compliance in all material respects with applicable U.S. Margin Regulations.

31. CSSU holds customer assets in accordance with Rule 15c3-3 of the 1934 Act, as amended (**SEC Rule 15c3-3**). SEC Rule 15c3-3 requires CSSU to segregate and keep segregated all "fully-paid securities" and "excess margin securities" (as such terms are defined in SEC Rule 15c3-3) of its customers from its proprietary assets. In addition to the segregation of customers' securities, SEC Rule 15c3-3 requires CSSU to deposit an amount of cash or qualified government securities determined in accordance with a reserve formula set forth in SEC Rule 15c3-3 in an account entitled "Special Reserve Account for the Exclusive Benefit of Customers" of CSSU at separate banks and/or custodians. The combination of segregated securities and cash reserve are designed to ensure that CSSU has sufficient assets to cover all net equity claims of its customers and provide protections that are substantially similar to the protections provided by the requirements dealer members of IIROC are subject. If CSSU fails to make an appropriate deposit, CSSU is required to notify the SEC and FINRA pursuant to SEC Rule 15c3-3(i). CSSU is in compliance with the possession and control requirements of SEC Rule 15c3-3. SEC Rule 15c3-3 is not applicable to CSPSS.

32. The Filers are members of the Securities Investors Protection Corporation (**SIPC**) and, subject to the eligibility criteria of SIPC, Prime Services Clients' assets held by the Filers are insured by SIPC against loss due to insolvency.

33. The Filers are in compliance in all material respects with U.S. securities laws. Subject to the matter to which the Exemption Sought relates, the Filers are not in default of securities legislation in any jurisdiction in Canada.

34. The Filers submit that the Exemption Sought would not be prejudicial to the public interest because:

    (a) the Filers are regulated as broker-dealers under the securities legislation of the U.S,. and are subject to the requirements listed in paragraphs 26 to 32,

    (b) the availability of and access to Prime Services is important to Canadian institutional investors who are active participants in the international marketplace,

    (c) the Filers will provide Prime Services in the Jurisdictions only to Institutional Permitted Clients,

    (d) the OSC has entered into a memorandum of understanding with the SEC regarding mutual assistance in the supervision and oversight of regulated entities that operate on a cross-border basis in the U.S. and Canada, and

    (e) the OSC has entered into a memorandum of understanding with FINRA to provide a formal basis for the exchange of regulatory information and investigative assistance.

35. At the request of the Alberta Securities Commission, the Filers will not rely on subsection 4.7(1) of MI 11-102 to passport this decision into Alberta.

36. The Filers are “market participants” as defined under subsection 1(1) of the Act. As market participants, among other requirements, the Filers are required to comply with the record keeping and provision of information provisions under section 19 of the Act, which include the requirement to keep such books, records and other documents as are necessary for the proper recording of business transactions and financial affairs and the transactions executed on behalf of others, and to deliver such records to the OSC if required.

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 so long as each Filer:

(a) has its head office or principal place of business in the U.S.;

(b) is registered as a broker-dealer under the securities legislation of the U.S., which permits the Filer to provide the Prime Services in the U.S.;

(c) is a member of FINRA;

(d) is a member of SIPC;

(e) is subject to requirements over regulatory capital, lending of money, extension of credit, provision of margin, financial reporting to the SEC and FINRA, and segregation and custody of assets which provide protections that are substantially similar to the protections provided by the rules to which dealer members of IIROC are subject;

(f) limits its provision of Prime Services in the Jurisdictions in respect of securities of Canadian issuers to Institutional Permitted Clients;

(g) does not execute trades in securities of Canadian issuers with or for Prime Services Clients, except as permitted under applicable Canadian securities laws;

(h) does not require its Prime Services Clients to use specific executing brokers through which Prime Services Clients must execute trades;

(i) notifies the OSC of any regulatory action initiated after the date of this decision in respect of the Filer, or any predecessors or specified affiliates of the Filer, by completing and filing with the OSC Appendix “A” hereto within ten days of the commencement of any such action; provided that the Filer may also satisfy this condition by filing with the OSC within ten days of the date of this decision, a notice making reference to and incorporating by reference the disclosure made by the Filer pursuant to U.S. federal securities laws that is identified in the FINRA BrokerCheck system, and any updates to such disclosure that may be made from time

to time, and by providing notification, in a manner reasonably acceptable to the Director, of any filing of a Form BD "Regulatory Action Disclosure Reporting Page";

(j) submits the financial report and compliance report as described in SEC Rule 17a-5(d) to the OSC on an annual basis, at the same time such reports are filed with the SEC and FINRA;

(k) submits audited financial statements to the OSC on an annual basis, within 90 days of the Filer's financial year end;

(l) submits to the OSC immediately a copy of any notice filed under SEC Rule 17a-11 or under SEC Rule 15c3-3(i) with the SEC and FINRA;

(m) complies with the filing and fee payment requirements applicable to a registrant under OSC Rule 13-502 *Fees*;

(n) files in an electronic and searchable format with the OSC such reports as to any or all of its trading activities in Canada as the OSC may, upon notice, require from time to time; and

(o) pays the increased compliance and case assessment costs of the principal regulator due to the Filer's location outside Ontario, including, as required, the reasonable cost of hiring a third party to perform a compliance review on behalf of the principal regulator.

This decision shall expire five years after the date hereof.

This decision may be amended by the OSC from time to time upon prior written notice to the Filers.

"Monica Kowal"
Vice Chair
Ontario Securities Commission

"D. Grant Vingoe"
Vice Chair
Ontario Securities Commission

APPENDIX "A"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates[1] of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

   Yes _____ No _____

   If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

		Yes	No
a)	Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	___	___
(b)	Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	___	___
(c)	Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	___	___
(d)	Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	___	___
(e)	Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	___	___
(f)	Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	___	___
(g)	Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	___	___

   If yes, provide the following information for each action:

Name of entity	
Type of action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

[1] In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliates is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm/dd)
Jurisdiction

Name of firm:
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)

This form is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

2.1.6 BNP Paribas Prime Brokerage, Inc.

Headnote

U.S. registered broker dealer exempted from dealer registration under paragraph 25(1) of the Act for provision of prime brokerage services – relief limited to trades in Canadian securities for institutional permitted clients – relief is subject to sunset clause.

Applicable Legislative Provisions

Statutes Cited

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

Instruments Cited

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 8.5, 8.18, 8.21.
National Instrument 81-102 Investment Funds.

February 13, 2017

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
BNP PARIBAS PRIME BROKERAGE, INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the **Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer from dealer registration under section 25(1) of the *Securities Act* (Ontario) (the **Act**) in respect of Prime Services (as defined below) relating to securities of Canadian issuers and that are provided in Canada to Institutional Permitted Clients (as defined below) (the **Exemption Sought**).

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

(a) the Ontario Securities Commission (**OSC**) is the principal regulator for this Application, and

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada in which the Filer relies on the exemption found in section 8.18 [*International dealer*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) other than the province of Alberta (the **Passport Jurisdictions** and together with the Jurisdiction, 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.

For the purposes of this decision, the following term has the following meaning:

"Institutional Permitted Client" shall mean a "permitted client" as defined in section 1.1 of NI 31-103, except for: (a) an individual, (b) a person or company acting on behalf of a managed account of an individual, (c) a person or company referred to in paragraph (p) of that definition unless that person or company qualifies as an Institutional Permitted Client under another paragraph of that definition, or (d) a person or company referred to in paragraph (q) of that definition unless that person or company has net assets of at least $100 million as shown on its most recently prepared financial statements or qualifies as an Institutional Permitted Client under another paragraph of that definition.

Representations

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

1. The Filer is a corporation incorporated under the laws of the State of Delaware, United States of America (**U.S.**) and its head office is located at 787 7th Avenue, New York, New York, 10019, United States of America. The Filer is wholly owned by BNP Paribas North America, Inc. BNP Paribas North America, Inc. is a wholly-owned subsidiary of Paribas North America, Inc. Paribas North America, Inc. is a wholly-owned subsidiary of BNP Paribas.

2. The Filer is registered as a broker-dealer with the United States (**U.S.**) Securities and Exchange Commission (**SEC**) and is a member of the Financial Industry Regulatory Authority (**FINRA**). This registration and membership permits the Filer to provide Prime Services (as defined below) in the U.S.

3. The Filer is a member of a number of major U.S. securities exchanges, including the New York Stock Exchange (**NYSE**), NYSE ARCA and Chicago Board of Options. The Filer is also a member of the CME Group (including the Chicago Board of Trade), ICE Futures U.S., Inc., and other principal U.S. commodity exchanges, and trades through affiliated or unaffiliated member firms on all other exchanges, including exchanges in Canada, Singapore and the United Kingdom.

4. The Filer was established for the express purpose of holding and financing customer accounts and clearing and settling transactions. The Filer lends money, extends credit and provides margin to clients. The Filer does not make proprietary investments or engage in market making activities.

5. The Filer does not provide trade execution services.

6. "Prime Services" provided by the Filer principally consists of the following: (a) settlement, clearing and custody of trades; (b) financing of long inventory; (c) securities borrowing and/or lending pursuant to a securities lending agreement or delivering securities on behalf of a client pursuant to a margin agreement, in each case, to facilitate client short sales; and (d) reporting of positions, margin and other balances and activity. For greater clarity, Prime Services do not include execution of trades in securities.

7. The Filer provides or wishes to provide Prime Services in the Jurisdictions to Institutional Permitted Clients (the **Prime Services Clients**).

8. In the case of a Prime Services Client that is an investment fund subject to Part 6 of National Instrument 81-102 *Investment Funds* (**NI 81-102**), the custodianship requirements in Part 6 of NI 81-102 would only permit the Filer to provide the Prime Services to the investment fund as a sub-custodian of the investment fund in respect of portfolio assets held outside Canada.

9. Prime Services Clients seek Prime Services from the Filer in order to separate the execution of a trade from the clearing, settlement, custody and financing of a trade. This allows the Prime Services Client to use many executing brokers, without maintaining an active, ongoing custody account with each executing broker. It also allows the Prime Services Client to consolidate settlement, clearing, custody and financing of securities in an account with the Filer.

10. The Filer's Prime Services Clients directly select their executing brokers. The Filer does not require their Prime Services Clients to use specific executing brokers through which Prime Services Clients must execute trades. Prime Services Clients send trade orders to the executing broker who carries out the trade. The executing broker will be an appropriately registered dealer or a person or company relying on an exemption from dealer registration that permits such executing broker to execute the trade for Prime Services Clients.

11. The Filer provides the Prime Services after the execution of the trade, but any commitment to provide financing or to lend or borrow securities in relation to a trade may be made prior to the execution of the trade. The executing broker will communicate the trade details to a Prime Services Client and the Filer or the Filer's clearing agent, as applicable. A Prime Services Client will also communicate the trade details to the Filer. For trades executed on a Canadian

marketplace, the Filer will typically need to clear and settle the trades through a participant of the Canadian depository, clearing and settlement hub, CDS Clearing and Depository Services Inc.

12. The Filer exchanges money or securities and holds the money or securities in an account for each Prime Services Client. If the Filer is clearing and settling the trade through a clearing agent, the Filer's clearing agent exchanges money or securities and holds the money or securities in an omnibus account for the Filer, which in turn maintains a record of the position held for the Prime Services Client on its books and records.

13. On or following settlement, the Filer provides the other Prime Services as set out in paragraph 6.

14. The Filer enters into written agreements with all of its Prime Services Clients for the provision of Prime Services.

15. On September 2, 2011, in CSA Staff Notice 31-327 *Broker-Dealer Registration in the Exempt Market Dealer Category*, the Canadian Securities Administrators (**CSA**) stated that they had concerns with firms applying for registration in and with firms registered in the category of exempt market dealer (**EMD**) who were carrying on brokerage activities, including trading listed securities. In light of these regulatory concerns, firms applying for registration were instead registered in the restricted dealer category with terms and conditions. The interim restricted dealer registrations were time limited and were intended to allow applicants to engage in limited activities while the CSA reviewed the activities of firms registered in the category of EMD and restricted dealer.

16. The Filer was registered as a restricted dealer in the provinces of Ontario, British Columbia, and Québec, and its registration was subject to a sunset clause. As a restricted dealer, the Filer was subject to the requirements of NI 31-103.

17. On February 7, 2013, in CSA Staff Notice 31-333 *Follow-up to Broker-Dealer Registration in the Exempt Market Dealer Category*, the CSA stated that they would be publishing amendments to NI 31-103 that would prohibit exempt market dealers from trading in a security if the security is listed, quoted or traded on a marketplace and if the trade in the security does not require reliance on a further exemption from the prospectus requirement (the **Rule Amendments**). The CSA stated that restricted dealers conducting brokerage activities in accordance with the terms and conditions of their registration would have their registration and any related exemptive relief extended to the date the Rule Amendments came into effect.

18. The Rule Amendments came into effect on July 11, 2015. At that time, the Filer's registration in the category of restricted dealer expired. Since the implementation of the Rule Amendments, only investment dealers that are dealer members of the Investment Industry Regulatory Organization of Canada (**IIROC**) or firms relying on an applicable exemption from the dealer registration requirement are permitted to engage in trading in a security if the security is listed, quoted or traded on a marketplace and if the trade in the security does not require reliance on a further exemption from the prospectus requirement in the Jurisdictions.

19. The Filer is relying on the "international dealer exemption" under section 8.18 [*International dealer*] of NI 31-103 in the ten Canadian provinces to provide Prime Services in respect of "foreign securities" as defined in section 8.18 of NI 31-103.

20. The Filer is not registered under NI 31-103, is in the business of trading, and in the absence of the Exemption Sought, cannot provide the full range of Prime Services in the Jurisdictions in respect of securities of Canadian issuers without registration, except as permitted under section 8.5 [*Trades through or to a registered dealer*], under the exemptions found in paragraphs (a), (b) and (f) of subsection 8.18(2) [*International dealer*], and under section 8.21 [*Specified debt*] of NI 31-103.

21. The Filer is subject to regulatory capital requirements under the *Securities Exchange Act of 1934* (the 1934 Act), specifically SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers* (SEC Rule 15c3-1) and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers* (SEC Rule 17a-5). The Filer has been approved by the SEC pursuant to SEC Rule 15c3-1 to use the alternative method of computing net capital contained in Appendix E to SEC Rule 15c3-1, and therefore files such supplemental and alternative reports as may be prescribed by the SEC. The Alternative Net Capital (ANC) method provides large broker-dealers meeting specified criteria, such as the Filer, with an alternative to use mathematical models such as the value at risk model to calculate capital requirements for market and derivatives related credit risk. The Filer, which uses the ANC method, must document and implement a comprehensive internal risk management system which addresses market, credit, liquidity, legal and operational risk at the firm.

22. SEC Rule 15c3-1 requires that the Filer account for any guarantee of debt of a third party in calculating its excess net capital when a loss is probable and the amount can be reasonably estimated. Accordingly, the Filer will, in the event

that it provides a guarantee of any debt of a third party, take a deduction from net capital when both of the preceding conditions exist. The Filer does not guarantee the debt of any third party.

23. SEC Rule 15c3-1 is designed to provide protections that are substantially similar to the protections provided by the capital formula requirements and specifically risk adjusted capital to which dealer members of IIROC are subject, and the Filer is in compliance with SEC Rule 15c3-1 and is in compliance in all material respects with SEC Rule 17a-5. If the Filer's net capital declines below the minimum amount required, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 17a-11 *Notification Provisions for Brokers and Dealers* (**SEC Rule 17a-11**). The SEC and FINRA have the responsibility to provide oversight over the Filer's compliance with SEC Rule 15c3-1 and SEC Rule 17a-5.

24. The Filer is required to prepare and file a financial report, which includes Form X-17a-5 (the **FOCUS Report**) which is the financial and operational report containing a net capital calculation, and a compliance report annually with the SEC and FINRA pursuant to SEC Rule 17a-5(d). The FOCUS Report provides a more comprehensive description of the business activities of the Filer, and more accurately reflects those activities including client lending activity, than would be provided by Form 31-103F1 *Calculation of Excess Working Capital* (**Form 31-103F1**). The net capital requirements computed using methods prescribed by SEC Rule 15c3-1 are based on all assets and liabilities on the books and records of a broker-dealer whereas Form 31-103F1 is a calculation of excess working capital, which is a computation based primarily on the current assets and current liabilities on the books and records of the dealer. The Filer is up-to-date in its submissions of annual reports under SEC Rule 17a-5(d), including the FOCUS Report.

25. The Filer is subject to regulations of the Board of Governors of the U.S.A. Federal Reserve Board (**FRB**), the SEC, and FINRA regarding the lending of money, extension of credit and provision of margin to clients (the **U.S. Margin Regulations**) that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of IIROC are subject. In particular, the Filer is subject to the margin requirements imposed by the FRB, including Regulation T, and under applicable SEC rules and under FINRA Rule 4210. The Filer is in compliance in all material respects with applicable U.S. Margin Regulations.

26. The Filer holds customer assets in accordance with Rule 15c3-3 of the 1934 Act, as amended (**SEC Rule 15c3-3**). SEC Rule 15c3-3 requires the Filer to segregate and keep segregated all "fully-paid securities" and "excess margin securities" (as such terms are defined in SEC Rule 15c3-3) of its customers from its proprietary assets. In addition to the segregation of customers' securities, SEC Rule 15c3-3 requires the Filer to deposit an amount of cash or qualified government securities determined in accordance with a reserve formula set forth in SEC Rule 15c3-3 in an account entitled "Special Reserve Account for the Exclusive Benefit of Customers" of such Filer at separate banks and/or custodians. The combination of segregated securities and cash reserve are designed to ensure that the Filer has sufficient assets to cover all net equity claims of its customers and provide protections that are substantially similar to the protections provided by the requirements dealer members of IIROC are subject. If the Filer fails to make an appropriate deposit, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 15c3-3(i). The Filer is in material compliance with the possession and control requirements of SEC Rule 15c3-3.

27. The Filer is a member of the Securities Investors Protection Corporation (**SIPC**) and, subject to the eligibility criteria of SIPC, Prime Services Clients' assets held by the Filer are insured by SIPC against loss due to insolvency.

28. The Filer is in compliance in all material respects with U.S. securities laws. Subject to the matter to which the Exemption Sought relates, the Filer is not in default of securities legislation in any jurisdiction in Canada.

29. The Filer submits that the Exemption Sought would not be prejudicial to the public interest because:

    (a) the Filer is regulated as a broker-dealer under the securities legislation of the U.S,. and is subject to the requirements listed in paragraphs 21 to 27,

    (b) the availability of and access to Prime Services is important to Canadian institutional investors who are active participants in the international marketplace,

    (c) the Filer will provide Prime Services in the Jurisdictions only to Institutional Permitted Clients,

    (d) the OSC has entered into a memorandum of understanding with the SEC regarding mutual assistance in the supervision and oversight of regulated entities that operate on a cross-border basis in the U.S. and Canada, and

    (e) the OSC has entered into a memorandum of understanding with FINRA to provide a formal basis for the exchange of regulatory information and investigative assistance.

30. At the request of the Alberta Securities Commission, the Filer will not rely on subsection 4.7(1) of MI 11-102 to passport this decision into Alberta.

31. The Filer is a "market participant" as defined under subsection 1(1) of the Act. As a market participant, among other requirements, the Filer is required to comply with the record keeping and provision of information provisions under section 19 of the Act, which include the requirement to keep such books, records and other documents as are necessary for the proper recording of business transactions and financial affairs and the transactions executed on behalf of others, and to deliver such records to the OSC if required.

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 so long as the Filer:

(a) has its head office or principal place of business in the U.S.;

(b) is registered as a broker-dealer under the securities legislation of the U.S., which permits the Filer to provide the Prime Services in the U.S.;

(c) is a member of FINRA;

(d) is a member of SIPC;

(e) is subject to requirements over regulatory capital, lending of money, extension of credit, provision of margin, financial reporting to the SEC and FINRA, and segregation and custody of assets which provide protections that are substantially similar to the protections provided by the rules to which dealer members of IIROC are subject;

(f) limits its provision of Prime Services in the Jurisdictions in respect of securities of Canadian issuers to Institutional Permitted Clients;

(g) does not execute trades in securities of Canadian issuers with or for Prime Services Clients, except as permitted under applicable Canadian securities laws;

(h) does not require its Prime Services Clients to use specific executing brokers through which Prime Services Clients must execute trades;

(i) notifies the OSC of any regulatory action initiated after the date of this decision in respect of the Filer, or any predecessors or specified affiliates of the Filer, by completing and filing with the OSC Appendix "A" hereto within ten days of the commencement of any such action; provided that the Filer may also satisfy this condition by filing with the OSC within ten days of the date of this decision, a notice making reference to and incorporating by reference the disclosure made by the Filer pursuant to U.S. federal securities laws that is identified in the FINRA BrokerCheck system, and any updates to such disclosure that may be made from time to time, and by providing notification, in a manner reasonably acceptable to the Director, of any filing of a Form BD "Regulatory Action Disclosure Reporting Page";

(j) submits the financial report and compliance report as described in SEC Rule 17a-5(d) to the OSC on an annual basis, at the same time such reports are filed with the SEC and FINRA;

(k) submits audited financial statements to the OSC on an annual basis, within 90 days of the Filer's financial year end;

(l) submits to the OSC immediately a copy of any notice filed under SEC Rule 17a-11 or under SEC Rule 15c3-3(i) with the SEC and FINRA;

(m) complies with the filing and fee payment requirements applicable to a registrant under OSC Rule 13-502 *Fees*;

(n) files in an electronic and searchable format with the OSC such reports as to any or all of its trading activities in Canada as the OSC may, upon notice, require from time to time; and

(o) pays the increased compliance and case assessment costs of the principal regulator due to the Filer's location outside Ontario, including, as required, the reasonable cost of hiring a third party to perform a compliance review on behalf of the principal regulator.

This decision shall expire five years after the date hereof.

This decision may be amended by the OSC from time to time upon prior written notice to the Filer.

"Monica Kowal"
Vice Chair
Ontario Securities Commission

"D. Grant Vingoe"
Vice Chair
Ontario Securities Commission

APPENDIX "A"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates[1] of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

   Yes _____ No _____

   If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

		Yes	No
a)	Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	___	___
(b)	Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	___	___
(c)	Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	___	___
(d)	Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	___	___
(e)	Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	___	___
(f)	Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	___	___
(g)	Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	___	___

   If yes, provide the following information for each action:

Name of entity	
Type of action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

[1] In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliates is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm/dd)
Jurisdiction

Name of firm:
Name of firm’s authorized signing officer or partner
Title of firm’s authorized signing officer or partner
Signature
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)

This form is to be submitted through the Ontario Securities Commission’s Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

2.1.7 Sirius XM Canada Holdings Inc. and 2517835 Ontario Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – plan of arrangement contemplates issuing exchangeable securities as part of deal consideration but resulting issuer is unable to rely on the exemption for exchangeable security issuer in subsection 13.3 of National Instrument 51-102 Continuous Disclosure Obligations and other applicable securities legislation – voting securities held by three shareholders in order to comply with CRTC foreign ownership restrictions – exchangeable shares are not "designated exchangeable securities" because they do not have voting rights for parent but are otherwise the economic equivalent – additional securities and debt securities outstanding – equivalent relief granted with respect to continuous disclosure requirements, subject to conditions.

Insiders of exchangeable security issuer granted relief from insider reporting requirements, subject to conditions.

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions – relief granted from the requirement under subsection 6.3(1)(c) to obtain a formal valuation of exchangeable shares to be used as non-cash consideration in connection with a business combination – exemption to the formal valuation under subsection 6.3(2) of MI 61-101 is technically not available – exchangeable securities are in all material respects the economic equivalent to the parent's publicly traded shares – valuation not required of exchangeable shares since parent shares can be a proxy for such exchangeable shares.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, ss. 107, 121(2)(a)(ii).
National Instrument 51-102 Continuous Disclosure Obligations, s. 13.3.
National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, ss. 8.4, 8.6(2).
National Instrument 52-110 Audit Committees, ss. 1.2(f), 8.1(2).
National Instrument 58-101 Disclosure of Corporate Governance Practices, ss. 1.3(c), 3.1(2).
National Instrument 55-102 System for Electronic Disclosure by Insiders (SEDI), s. 6.1(2).
National Instrument 55-104 Insider Reporting Requirements and Exemptions, s. 10.1(2).
Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, ss. 6.3(1)(c), 6.3(2).

February 10, 2017

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
SIRIUS XM CANADA HOLDINGS INC.
("XSR")
AND
2517835 ONTARIO INC.
("2517835")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from XSR and 2517835 for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") exempting:

(a) New XSR (as defined below) from the requirements prescribed by National Instrument 51-102 *Continuous Disclosure Obligations* ("**NI 51-102**") (the "**Continuous Disclosure Requirements**");

(b) New XSR from the requirements prescribed by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the "**Certification Requirements**");

(c) New XSR from the requirements prescribed by National Instrument 52-110 *Audit Committees* (the "**Audit Committee Requirements**");

(d) New XSR from the requirements prescribed by National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the "**Corporate Governance Requirements**", (a), (b), (c), and (d) collectively, the "**CD Relief**");

(e) insiders of New XSR from the insider reporting requirements set out in section 107 of the *Securities Act* (Ontario) (the "**Insider Act Requirements**");

(f) insiders of New XSR from the insider reporting requirements prescribed by National Instrument 14-101 *Definitions* ("**NI 14-101**"), National Instrument 55-102 *System for Electronic Disclosure by Insiders* ("**NI 55-102**") and National Instrument 55-104 *Insider Reporting Requirements and Exemptions* ("**NI 55-104**") in respect of New XSR (the "**Insider Reporting Requirements**", (e) and (f) together, the "**Insider Reporting Relief**"); and

(g) XSR from the requirement in subsection 6.3(1)(c) of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**") to obtain a formal valuation of the non-cash consideration being offered to holders of Class A Shares (as defined below) in the form of Exchangeable Shares (as defined below) under the Arrangement (as defined below) (the "**Formal Valuation Relief**"),

(the CD Relief, the Insider Reporting Relief and the Formal Valuation Relief collectively, the "**Exemptions Sought**").

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

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

(b) XSR and 2517835 have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

Interpretation

Terms defined in NI 14-101 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 XSR and 2517835:

1. XSR is a corporation incorporated under the *Business Corporations Act* (Ontario) (the "**OBCA**"). The head office of XSR is located in Toronto, Ontario.

2. XSR is the sole shareholder of Sirius XM Canada Inc. ("**SXMC**"), the entity through which XSR operates its business.

3. XSR and SXMC entered into an arrangement agreement dated May 12, 2016 with Sirius XM Radio Inc. ("**Sirius XM Radio**") and 2517835 pursuant to which 2517835 agreed to acquire all of the issued and outstanding shares of XSR under a plan of arrangement (the "**Arrangement**"). Immediately following the completion of the Arrangement, XSR and 2517835 will amalgamate (the "**Amalgamation**"), with the resulting company being referred to herein as "New XSR".

4. 2517835, a company incorporated under the OBCA, is currently wholly-owned by Sirius XM Radio.

5. Sirius XM Radio, a company incorporated under the laws of Delaware, is a wholly-owned subsidiary of Sirius XM Holdings Inc. ("**SIRI**"), a company incorporated under the laws of Delaware. SIRI is an SEC issuer with its common stock registered under section 12 of the Securities Exchange Act of 1934 and listed for trading on the NASDAQ Global Select Market ("**NASDAQ**").

6. The authorized share capital of XSR consists of an unlimited number of Class A subordinate voting shares (the "**Class A Shares**"), an unlimited number of Class B voting shares (the "**Class B Shares**") and an unlimited number of Class C non-voting shares ("**Class C Shares**"), of which, as at the date hereof, there are issued and outstanding approximately 104,818,043 Class A Shares, 30,729,510 Class B Shares and 13,638,527 Class C Shares.

7. As of November 30, 2016, (i) Obelysk Media Inc. ("**Obelysk**") owned 7,887,307 Class A Shares and 15,259,149 Class B Shares of XSR, (ii) Slaight Communications Inc. ("**Slaight**") owned 10,700,000 Class A Shares and 15,470,361 Class B Shares of XSR, and (iii) Sirius XM Radio owned 33,685,653 Class A Shares and 13,638,527 Class C Shares of XSR. Assuming conversion of all Class B Shares and Class C Shares into Class A Shares, as of November 30, 2016, (i) Obelysk would have owned 12,973,690 Class A Shares of XSR, (ii) Slaight would have owned 15,856,787 Class A Shares of XSR, and (iii) Sirius XM Radio would have owned 47,324,180 Class A Shares of XSR.

8. Each of Obelysk, Slaight and Sirius XM Radio is a "related party", as defined under MI 61-101, of XSR.

9. XSR has issued $200 million in aggregate principal amount of 5.625% senior unsecured notes due April 23, 2021 (the "**2021 Notes**") on a private placement basis to certain accredited investors. The 2021 Notes are non-convertible debt securities without any conversion or exchange rights. They are not traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* ("**NI 21-101**") and will remain outstanding following the completion of the Arrangement.

10. The trust indenture governing the 2021 Notes dated April 23, 2014 between XSR, SXMC and Equity Financial Trust Company (the "**Trust Indenture**") contains provisions regarding the informational rights of holders of 2021 Notes. In the event that XSR completes a going private transaction such as the Arrangement, the terms of the Trust Indenture provide holders with information rights, including requirements for annual and interim financial statements and management's discussion and analysis to be prepared and furnished privately to holders of 2021 Notes.

11. XSR's Class A Shares are listed and posted for trading on the Toronto Stock Exchange. XSR is a reporting issuer in each of the provinces of Canada (the "**Reporting Jurisdictions**"). Neither XSR nor 2517835 are in default of their obligations under the securities legislation in any of the Reporting Jurisdictions.

The Arrangement

12. The Arrangement would, subject to applicable shareholder, regulatory and court approval and other conditions, effect a "business combination" of XSR and 2517835 pursuant to section 182 of the OBCA, utilizing a traditional cross-border "exchangeable share" structure. The Arrangement is a going private transaction.

13. The Arrangement will be consummated on the effective date and will include, among others, the following key steps:

    (a) each of

        (i) Obelysk and Slaight will transfer 1,666,667 Class A Shares of XSR to 2517835 as at the effective time of the Arrangement in exchange for each receiving 1,666,667 voting Class A shares of 2517835, and

        (ii) Sirius XM Radio will transfer all of its Class A Shares and Class C Shares of XSR to 2517835 as at the effective time of the Arrangement in exchange for 1,641,791 voting Class A shares of 2517835, 6,135,987 non-voting Class B shares of 2517835 and 177,958,942 non-voting Series 2 preferred shares of 2517835; and

    (b) 2517835 will acquire all of the remaining outstanding Class A Shares and Class B Shares of XSR in exchange for,

        (i) in the case of the Class A Shares, either (A) $4.50 in cash, (B) 0.898 of a share of SIRI common stock (each such whole share, a "**SIRI Share**"), or (C) 0.898 of a share of 2517835 (each such whole share, an "**Exchangeable Share**") exchangeable into one share of SIRI common stock, and

        (ii) in the case of the Class B Shares, either (A) $1.50 in cash, (B) 0.299 of a SIRI Share, or (C) 0.299 of an Exchangeable Share.

14. 2517835 is only obligated to issue Exchangeable Shares as part of the consideration under the Arrangement if (i) Class A Shares and Class B Shares having an equivalent aggregate value of at least $25,000,000 (on the basis of $4.50 per Class A Share and $1.50 per Class B Share) are exchanged for Exchangeable Shares, and (ii) if the exemptive relief which is the subject of this decision is obtained prior to the effective time of the Arrangement. If either of the foregoing conditions are not satisfied, then no Exchangeable Shares will be issued and any holders of XSR shares that elected Exchangeable Shares will instead receive cash and/or SIRI Shares as specified in their letter of transmittal and election form.

15. The maximum aggregate number of SIRI Shares and Exchangeable Shares that may be issued to XSR shareholders pursuant to the Arrangement is 35,000,000. In the event that the aggregate number of SIRI Shares and Exchangeable Shares elected by XSR shareholders pursuant to the Arrangement exceeds 35,000,000, then such XSR shareholders shall receive a pro-rated number of SIRI Shares and Exchangeable Shares.

16. The Exchangeable Shares issuable under the Arrangement would represent less than one percent of the total outstanding voting rights of SIRI.

17. Immediately prior to the effective time of the Arrangement, Sirius XM Radio will provide the required cash to 2517835, through an advance of funds by way of an inter-corporate loan to 2517835 (the "**2517835 Debt**") and by way of a subscription for non-voting Series 2 preferred shares of 2517835, such that 2517835 can fund the cash component of the consideration payable under the Arrangement (as described in paragraph 13(b)) at the effective time of the Arrangement.

18. The amount and specific terms of the 2517835 Debt will be finalized prior to the closing date of the Arrangement but the terms, including interest rate and terms of default, will be commercially and market based.

Amalgamation

19. Following the Amalgamation, New XSR will have the following securities outstanding:

    (a) 4,975,125 voting Class A shares ("**New XSR Class A Shares**") to be held as follows:

        (i) Obelysk – 1,666,667 New XSR Class A Shares,

        (ii) Slaight – 1,666,667 New XSR Class A Shares, and

        (iii) Sirius XM Radio – 1,641,791 New XSR Class A Shares;

    (b) 6,135,987 non-voting Class B shares ("**New XSR Class B Shares**"), all of which will be held by Sirius XM Radio;

    (c) non-voting preferred shares ("**New XSR Preferred Shares**"), all of which will be held by Sirius XM Radio; and

    (d) exchangeable shares ("**New XSR Exchangeable Shares**") having the same terms and in the same quantity as the Exchangeable Shares issued under the Arrangement, if any.

20. Immediately following the completion of the Arrangement and the Amalgamation, Slaight and Obelysk will collectively own 67% of the New XSR voting shares, while Sirius XM Radio will own the remaining 33% of the voting shares of New XSR.

21. Upon completion of the Arrangement and the Amalgamation, New XSR will assume the 2021 Notes and the 2517835 Debt.

22. As of the closing of the Arrangement and Amalgamation, New XSR will not have any business operations other than indirectly through its interest in SXMC.

Special Committee and Board

23. The special independent committee of XSR's board of directors (the "**Special Committee**") unanimously recommended to XSR's board of directors that it recommend that XSR shareholders (other than Slaight, Obelysk and Sirius XM Radio) vote in favour of the shareholder resolution authorizing and approving the Arrangement (the "**Arrangement Resolution**"). In connection and concurrently with its recommendation, the Special Committee received fairness opinions from Ernst & Young LLP and National Bank Financial Inc., that the consideration offered under the Arrangement (which includes the Exchangeable Shares) is fair, from a financial point of view, to the holders of XSR shares (other than Slaight, Obelysk and Sirius XM Radio). Ernst & Young LLP also provided a formal valuation of the Class A Shares. Following the recommendation of the Special Committee, XSR's board of directors (with the interested directors abstaining from voting and not participating in the review of the Arrangement) unanimously recommended that XSR shareholders (other than Slaight, Obelysk and Sirius XM Radio) approve the Arrangement.

Securityholder Approval

24. The special meeting of XSR voting shareholders (the "**Special Meeting**") was held on August 30, 2016. A special majority of XSR voting shareholders, including a majority of disinterested XSR voting shareholders, approved the Arrangement Resolution by 89.14% of the 121,792,144 votes cast by XSR voting shareholders, and 65.91% of the 38,781,229 votes cast by disinterested XSR voting shareholders, present in person or represented by proxy at the Special Meeting.

25. The Arrangement Resolution received the required shareholder approval, being the affirmative vote of not less than:

    (a) 66⅔% of the votes cast on the arrangement resolution by the holders of the Class A Shares and Class B Shares of XSR, voting together, present in person or by proxy at the Special Meeting; and

    (b) a majority of the votes cast by holders of Class A Shares present in person or by proxy at the Special Meeting excluding for this purpose votes attached to Class A Shares held by persons described in items (a) through (d) of subsection 8.1(2) of MI 61-101.

    All issued and outstanding Class A Shares held by Sirius XM Radio, Slaight and Obelysk were excluded for purposes of "minority approval". All of the issued and outstanding Class B Shares and Class C Shares were excluded for purposes of "minority approval" as they are held by Slaight and Obelysk, in the case of the Class B Shares, and Sirius XM Radio in the case of the Class C Shares. There are no Class B Shares or Class C Shares held by minority shareholders and therefore no vote was needed in respect of either class under MI 61-101. In addition, there are no voting rights attached to the Class C Shares and therefore Sirius XM Radio was not entitled to vote such Class C Shares on the arrangement resolution.

26. The meeting materials, including the notice of meeting, management information circular (the "**Circular**"), form of proxy and letters of transmittal and election form, were made publicly available on SEDAR as of August 2, 2016 and mailed to XSR shareholders. The Circular complied with the requirements of applicable securities law and disclosed that neither XSR nor any of its officers or directors has any knowledge of any material information concerning 2517835 or the Exchangeable Shares and XSR likewise has no material undisclosed information concerning SIRI or the SIRI Shares.

27. The Circular contained the formal valuation and fairness opinion of Ernst & Young LLP as well as the fairness opinion of National Bank Financial Inc. The Circular also contained disclosure in respect of XSR, SIRI and 2517835.

Court Approval

28. On July 28, 2016, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") granted an interim order under the OBCA and on September 6, 2016, the Court issued a final order approving the Arrangement.

CRTC Approval

29. The Arrangement is subject to the approval of the Canadian Radio-Television and Telecommunications Commission ("**CRTC**").

30. It is a CRTC requirement that Canadian shareholders own at least 67% of the votes and voting shares of New XSR. As such, the shareholdings of New XSR have been structured to satisfy this Canadian ownership requirement (the "**CRTC Requirement**").

New XSR Capital Structure

31. The rights, privileges, restrictions and conditions attaching to the New XSR Class A Shares, New XSR Class B Shares, New XSR Preferred Shares and New XSR Exchangeable Shares will be set out in the articles of amalgamation to be filed in connection with the Amalgamation.

32. Holders of New XSR Class A Shares will be entitled (i) to dividends if, as and when declared by the directors of New XSR, (ii) upon the liquidation, dissolution or winding-up of New XSR, to participate rateably with the holders of New XSR Class B Shares in the remaining assets of New XSR (subject to the prior rights of the holders of New XSR Preferred Shares), and (iii) to one vote in respect of each New XSR Class A Share on matters brought before all meetings of holders of New XSR Class A Shares.

33. New XSR, SXMC, Sirius XM Radio, Slaight and Obelysk will enter into a shareholders agreement (the "**Shareholders' Agreement**") upon closing of the Arrangement to manage their relationship with respect to New XSR including, among

other things, board appointments, information rights and restricting the transfer of the voting securities in order to align with the CRTC Requirement.

34. Pursuant to the Shareholders' Agreement, the shareholders of New XSR will agree to act to ensure that no transfer or issuance of securities shall be permitted if such transfer or issuance would result in a violation of the *Broadcasting Act* (Canada) (the "**Broadcasting Act**") and related regulations, rules, policies, directions and decisions or require the prior approval of the CRTC or any other regulatory authority having jurisdiction, unless and until such approval has been obtained.

35. Holders of New XSR Class B Shares will be entitled (i) to dividends if, as and when declared by the directors of New XSR, and (ii) upon the liquidation, dissolution or winding-up of New XSR, to participate rateably with the holders of New XSR Class A Shares in the remaining assets of New XSR (subject to the prior rights of the holders of New XSR Preferred Shares).

36. Holders of New XSR Class A Shares and New XSR Class B Shares will be entitled to the receipt of equal dividends on their shares, if declared by the directors of New XSR.

37. Holders of New XSR Preferred Shares will be entitled (i) to cash dividends as and when declared by the directors of New XSR (which dividends may only be declared and paid if the target dividends in respect of the New XSR Class A Shares and New XSR Class B Shares have been declared and paid), and (ii) upon the liquidation, dissolution or winding-up of New XSR, to receive an amount equal to the redemption price ($1.00) before any distribution in respect of any other shares of New XSR.

38. The New XSR Exchangeable Shares are intended to provide Canadian shareholders with a temporary tax deferral from the effective time of the Arrangement until conversion to SIRI Shares.

39. The rights, privileges, restrictions and conditions attaching to the New XSR Exchangeable Shares will be set out in articles of amalgamation of New XSR. Holders of New XSR Exchangeable Shares are entitled:

(a) at any time without any conditions to exchange one New XSR Exchangeable Share for one SIRI Share;

(b) to dividends equal to the dividends, if any, declared from time to time on the SIRI Shares;

(c) in the event of the liquidation, dissolution or winding-up of New XSR or any other distribution of the assets of New XSR among its shareholders for the purpose of winding up its affairs, to receive from the assets of New XSR in respect of each New XSR Exchangeable Share held by such holder on the liquidation date before any distribution of any part of the assets of New XSR among the holders of the common shares of New XSR or any other shares ranking junior to the New XSR Exchangeable Shares, an amount per share equal to current market value of one SIRI Share plus any declared and unpaid dividends relating to such SIRI Share, which shall be satisfied in full by New XSR delivering or causing to be delivered to such holder one SIRI Share, plus any such dividend amount;

(d) in the event of a liquidation event of SIRI (a "**SIRI Liquidation Event**"), SIRI will purchase all of the New XSR Exchangeable Shares from the holders thereof immediately prior to the effective date of such SIRI Liquidation Event. The purchase price payable by SIRI for each New XSR Exchangeable Share purchased pursuant to the SIRI Liquidation Event will be satisfied by the delivery of one SIRI Share for each New XSR Exchangeable Share purchased, together with an amount equal to the dividend amount, if any; and

(e) in the event that a tender offer, share exchange offer, issuer bid, takeover bid or similar transaction with respect to SIRI Shares is proposed by SIRI or is proposed to SIRI or its shareholders and is recommended by the board of directors of SIRI, or is otherwise effected or to be effected with the consent or approval of the board of directors of SIRI, and the New XSR Exchangeable Shares are not redeemed by New XSR or purchased pursuant to the terms of the New XSR Exchangeable Shares, SIRI will expeditiously and in good faith take all such actions and do all such things as are necessary or desirable to enable and permit holders of New XSR Exchangeable Shares (other than SIRI, its affiliates and New XSR) to participate in such offer to the same extent and on an economically equivalent basis as the holders of SIRI Shares, without discrimination.

40. Holders of New XSR Exchangeable Shares are not entitled to receive notice of or to attend any meeting of the shareholders of SIRI or to vote at any such meeting. Except as required by applicable law and in respect of certain matters as further described in the share provisions of the New XSR Exchangeable Shares, holders of New XSR Exchangeable Shares will not be entitled as such to receive notice of or to attend any meeting of the shareholders of New XSR or to vote at any such meeting. Without limiting the generality of the foregoing, holders of New XSR Exchangeable Shares will not have class votes except as required by applicable law.

41. Subject to certain conditions and limitations as described in the Circular, holders of New XSR Exchangeable Shares will be entitled at any time following completion of the Arrangement to retract any or all New XSR Exchangeable Shares registered in their names and to receive an amount per share equal to the current market price of a SIRI Share on the last business day prior to the day on which New XSR will redeem such New XSR Exchangeable Shares plus the dividend amount, which shall be satisfied in full by New XSR delivering or causing to be delivered to such holder one SIRI Share, plus any dividend amount.

42. Subject to certain conditions and limitations as described in the Circular, New XSR may redeem the whole of the then outstanding New XSR Exchangeable Shares by delivery of an amount per share equal to the current market price of a SIRI Share on the last business day prior to the redemption date plus the dividend amount to each holder thereof, which shall be satisfied in full by New XSR causing to be delivered to each holder of New XSR Exchangeable Shares one SIRI Share for each New XSR Exchangeable Share, plus the dividend amount.

CD Relief

43. Following the completion of the Arrangement and the Amalgamation, (i) New XSR and SIRI will be reporting issuers in each of the Reporting Jurisdictions (where that concept exists), (ii) XSR's shares will be de-listed from the Toronto Stock Exchange, and (iii) no securities of New XSR will be listed or posted for trading on any stock exchange or marketplace as defined in NI 21-101. There is no intention to conduct a public financing of securities of New XSR.

44. SIRI will file continuous disclosure documentation on SEDAR pursuant to the requirements of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*. SIRI is the parent of Sirius XM Radio, a shareholder of New XSR, and the issuer of the shares underlying the New XSR Exchangeable Shares.

45. An exchangeable security issuer can satisfy its continuous disclosure obligations provided it can meet the conditions of subsection 13.3(2) of NI 51-102 (the "**Exchangeable CD Exemption**"). By satisfying the requirements and conditions of the Exchangeable CD Exemption, such issuer would also be exempt from (i) the Certification Requirements pursuant to section 8.4 of NI 52-109, (ii) the Audit Committee Requirements pursuant to subsection 1.2(f) of NI 52-110, and (iii) the Corporate Governance Requirements pursuant to subsection 1.3(c) of NI 58-101.

46. If not for the capital structure of New XSR, which is designed to comply with the CRTC Requirements and to facilitate the completion of the Arrangement, and the outstanding 2021 Notes, New XSR could have relied upon the Exchangeable CD Exemption.

47. Following the completion of the Arrangement and the Amalgamation and because of the CRTC Requirement, New XSR will have three shareholders holding voting securities, Sirius XM Radio, Slaight and Obelysk. Their relationship with respect to New XSR including, among other things, board appointments, information rights and restricting the transfer of the voting securities in order to align with the CRTC Requirement, will be governed by the Shareholders' Agreement.

48. The preferred shares and debt securities, being issued by 2517835 are being issued in connection with the Arrangement to facilitate the acquisition of XSR by 2517835, and such securities will be wholly owned by Sirius XM Radio.

49. The 2021 Notes (which will become obligations of New XSR) will remain outstanding; however holders of 2021 Notes will receive disclosure pursuant to the information rights under the Trust Indenture.

50. The New XSR Exchangeable Shares would otherwise satisfy the criteria of "designated exchangeable securities" within the meaning of section 13.3 of NI 51-102 except that holders of New XSR Exchangeable Shares will not have voting rights with respect to matters upon which holders of SIRI Shares are entitled to vote. Notwithstanding the foregoing, the New XSR Exchangeable Shares are otherwise the economic equivalent of SIRI Shares and are exchangeable at the holder's discretion for SIRI Shares.

Insider Reporting Relief

51. Insider reporting and profile requirements are set out in section 107 of the Securities Act (Ontario), NI 55-102 and NI 55-104. The insider reporting requirement and the requirement to file an insider profile under NI 55-102, however, do not apply to any insider of an exchangeable security issuer in respect of securities of that exchangeable security issuer so long as the conditions of subsection 13.3(3) of NI 51-102 are met (the "**Exchangeable Insider Reporting Exemption**").

52. New XSR is unable to satisfy the requirements of the Exchangeable Insider Reporting Exemption for the same reasons as noted above with respect to the Exchangeable CD Exemption.

53. No insider of New XSR will receive, in the ordinary course, information as to material facts or material changes concerning SIRI before the material facts or material changes are generally disclosed.

54. No insider will be an insider of SIRI in any capacity other than by virtue of being an insider of New XSR.

Formal Valuation Relief

55. The Arrangement constitutes a "business combination" for purposes of MI 61-101 and is therefore subject to the applicable requirements of MI 61-101 relating to, among other things, preparation of a formal valuation of the non-cash consideration involved in the Arrangement and the approval by a majority of the votes cast by disinterested holders of XSR voting shares at the Special Meeting.

56. As noted in paragraph 24, the Arrangement was approved by a majority of the votes cast by disinterested XSR voting shareholders, present in person or represented by proxy at the Special Meeting.

57. As noted in paragraph 23, the Special Committee retained Ernst & Young LLP to provide a formal valuation of the Class A Shares, which was prepared in accordance with MI 61-101. In addition, the Special Committee received fairness opinions from Ernst & Young LLP and National Bank Financial Inc., each fairness opinion to the effect that the consideration to be received by the minority XSR shareholders pursuant to the Arrangement (which includes the Exchangeable Shares) is fair, from a financial point of view, to such holders.

58. Ernst & Young LLP advised the Special Committee of XSR in the fairness opinion that a formal valuation of the non-cash consideration comprised of the SIRI Shares was not obtained on the basis that a liquid market exists for the SIRI Shares and that Ernst & Young LLP is of the opinion that the SIRI Shares meet the requirements for an exemption from a formal valuation as outlined in subsection 6.3(2) of MI 61-101.

59. The Special Committee has confirmed that it agrees with the facts set out in this decision.

60. The New XSR Exchangeable Shares will be, in all material respects, economically equivalent to the SIRI Shares for which there is a liquid market on the NASDAQ, in that (a) they will be exchangeable into SIRI Shares on a one for one basis (subject to customary anti-dilution adjustments) at any time at the option of the holder thereof; and (b) the distributions to be made on the New XSR Exchangeable Shares will be equal to the distributions that the holder of the New XSR Exchangeable Shares would have received if it was holding the SIRI Shares that may be obtained upon the exchange of such New XSR Exchangeable Shares.

61. The primary mechanism of liquidity for holders of New XSR Exchangeable Shares is expected to be the exchange of the New XSR Exchangeable Shares, given that there will be a public market for the SIRI Shares.

62. A formal valuation of the New XSR Exchangeable Shares is not necessary as they are the economic equivalent of SIRI Shares, for which a formal valuation is not required pursuant to subsection 6.3(2) of MI 61-101.

Decision

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

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

1. the Arrangement and the Amalgamation have each become effective on or before May 31, 2017;

2. in respect of the Continuous Disclosure Requirements, the Certification Requirements, the Audit Committee Requirements and the Corporate Governance Requirements,

   (a) Any of Sirius XM Radio, Obelysk, Slaight and/or their respective affiliates, are the direct or indirect beneficial owners of all of the issued and outstanding voting securities of New XSR;

   (b) New XSR does not issue any securities, including debt securities, other than: (i) pursuant to the Arrangement; (ii) additional New XSR Exchangeable Shares that may be issued only as necessary for such shares to maintain economic equivalence with SIRI Shares; and (iii) to Sirius XM Radio, Obelysk, Slaight or their respective affiliates. Immediately following the Amalgamation, New XSR does not have any securities outstanding (including debt securities), other than the New XSR Class A Shares, New XSR Class B Shares, New XSR Preferred Shares, New XSR Exchangeable Shares, the 2021 Notes previously issued and the 2517835 Debt;

(c) the New XSR Class A Shares will not be transferred except to Sirius XM Radio, Slaight and Obelysk, or their respective affiliates, including if at any time Sirius XM Radio is not prohibited by applicable laws, including the restrictions imposed by the Broadcasting Act and the CRTC, from acquiring additional New XSR Class A Shares from Slaight or Obelysk, Sirius XM Radio shall be entitled to purchase some or all of such New XSR Class A Shares held by Slaight and Obelysk;

(d) New XSR and SIRI, as applicable, comply with subsections 13.3(2)(b) and 13.3(2)(d) – (h) of NI 51-102; and

(e) New XSR complies with the conditions of the Trust Indenture for as long as the 2021 Notes remain outstanding;

3. in respect of the Insider Act Requirements and the Insider Reporting Requirements,

(a) insiders of New XSR comply with subsections 13.3(3)(a) and (c) of NI 51-102; and

(b) New XSR and SIRI continue to satisfy the conditions set out in paragraph 2 above with respect to the Continuous Disclosure Requirements, the Certification Requirements, the Audit Committee Requirements and the Corporate Governance Requirements.

As to the CD Relief and Insider Reporting Relief (other than the Insider Act Requirements):

“Michael Balter”
Manager, Corporate Finance
Ontario Securities Commission

As to the Exemption Sought with respect to the Insider Act Requirements:

“William Furlong”
Commissioner
Ontario Securities Commission

“Janet A. Leiper”
Commissioner
Ontario Securities Commission

As to the Formal Valuation Relief:

“Naizam Kanji”
Director, Office of Mergers & Acquisitions
Ontario Securities Commission

2.2 Orders

2.2.1 Sparrow Ventures Corp. – s. 144

Headnote

Application by an issuer for a full revocation of a cease trade order issued by the Commission – cease trade order issued because the issuer had failed to file certain continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – cease trade order revoked.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

IN THE MATTER OF
SPARROW VENTURES CORP.

ORDER
(Section 144 of the Act)

WHEREAS the securities of Sparrow Ventures Corp. (the **Applicant**) are subject to a temporary cease trade order dated October 13, 2015, issued by the Director of the Ontario Securities Commission (the **Commission**) pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further cease trade order dated October 26, 2015 issued by the Director pursuant to paragraph 2 of subsection 127(1) of the Act (as extended, the **Ontario Cease Trade Order**), directing that all trading in the securities of the Applicant, whether direct or indirect, 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 Applicant was in default of certain filing requirements under Ontario securities law as described in the Ontario Cease Trade Order;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was incorporated on July 4, 2006 under the *Business Corporations Act* (British Columbia) in the name of “0762477 B.C. Ltd.” and on December 17, 2007, changed its name to “Sparrow Ventures Corp.”.

2. The Applicant’s head office is located at 610 – 700 West Pender Street, Vancouver, BC, V6C 1G8.

3. The Applicant’s registered and records office is located at 700 – 1199 West Hastings Street, Vancouver, BC, V6C 3A6.

4. The Applicant is a reporting issuer under the securities legislation of the provinces of British Columbia, Alberta, and Ontario (the **Reporting Jurisdictions**). The Applicant is not a reporting issuer in any other jurisdiction in Canada. The Applicant’s principal regulator is the British Columbia Securities Commission (**BCSC**).

5. The Applicant’s authorized share capital consists of an unlimited number of common shares, without nominal or par value, of which 13,658,300 common shares were issued and outstanding as of January 9, 2017. The Applicant also has (a) 60,000 stock options outstanding, each with an exercise price of $0.05 and expiring on May 27, 2021; (b) 330,000 stock options outstanding, each with an exercise price of $0.05 and expiring on June 17, 2024; (c) 105,000 charitable options outstanding, each with an exercise price of $0.10 and expiring on May 26, 2018; and (d) convertible debentures with a face value of $48,959, of which $28,754 mature on September 14, 2018, and $20,205 mature on December 9, 2018. Aside from the aforementioned, the Applicant has no other securities issued and outstanding.

6. The Applicant’s common shares were listed on Tier 2 of the TSX Venture Exchange until the listing was transferred to the NEX Board on June 17, 2014. Trading of the Applicant’s common shares was suspended effective June 29, 2015, due to the Applicant’s failure to maintain the services of a transfer agent in accordance with the policies of the TSX Venture Exchange. The Applicant’s common shares are listed only on the NEX Board at this time and are not listed on any other exchange or market in Canada or elsewhere.

7. The Ontario Cease Trade Order was issued as a result of the Applicant’s failure to file its unaudited interim financial statements, the related management's discussion and analysis (**MD&A**) and certifications of interim filings as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109**) for the six months ended July 31, 2015 (the **Interim Filings**).

8. The Applicant is also subject to a similar cease trade order issued by the BCSC on October 6, 2015 (the **BC Cease Trade Order**, and together with the Ontario Cease Trade Order, the **Cease Trade Orders**). The BC Cease Trade Order is also effective in Alberta due to the Government of

Alberta's 2015 adoption of statutory reciprocal order provisions.

9. On August 15, 2016, the BCSC granted a partial revocation order to the BC Cease Trade Order to permit certain trades in connection with the private placement of secured convertible debentures (for gross proceeds of up to $250,000) to British Columbia and offshore subscribers. The Applicant completed the first tranche of the private placement for gross proceeds of $28,754 on October 3, 2016 and the second tranche of the private placement for gross proceeds of $20,205 on January 17, 2017.

10. The Applicant has concurrently applied to the BCSC for a full revocation of the BC Cease Trade Order.

11. Subsequent to the issuance of the Ontario Cease Trade Order, the Applicant failed to file with the Reporting Jurisdictions the following continuous disclosure documents within the prescribed time-frame in accordance with the requirements of securities laws:

    (i) unaudited interim financial statements, related MD&A and NI 52-109 certificates for the nine months ended October 31, 2015;

    (ii) audited annual financial statements, related MD&A and NI 52-109 certificates for the financial year ended January 31, 2016;

    (iii) unaudited interim financial statements, related MD&A and NI 52-109 certificates for the three months ended April 30, 2016; and

    (iv) unaudited interim financial statements, related MD&A and NI 52-109 certificates for the six months ended July 31, 2016.

    (collectively, the **Subsequent Filings**)

12. Since the issuance of the Ontario Cease Trade Order, the Applicant has filed the Interim Filings and the Subsequent Filings with the Reporting Jurisdictions, as well as unaudited interim financial statements, related MD&A and NI 52-109 certificates for the nine months ended October 31, 2016.

13. The Applicant is (i) up-to-date with all of its continuous disclosure obligations; (ii) not in default of any requirements under applicable securities legislation or the rules and regulations made pursuant thereto in any of the Reporting Jurisdictions, except for the existence of the Cease Trade Orders; and (iii) not in default of any of its obligations under the Cease Trade Orders.

14. The Applicant's issuer profile on the System for Electronic Document Analysis and Retrieval (**SEDAR**) and issuer profile supplement on the System for Electronic Disclosure by Insiders (**SEDI**) are current and accurate.

15. The Applicant has paid all outstanding activity, participation and late filing fees that are required to be paid to the Commission.

16. The Applicant is not considering nor is it involved in any discussions related to, a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.

17. Since the issuance of the Cease Trade Orders, there have not been any material changes in the business, operations or affairs of the Applicant that have not been disclosed to the public.

18. The Applicant held its Annual General and Special Meeting on December 7, 2016.

19. Upon the issuance of this revocation order, the Applicant will issue a news release announcing the revocation of the Ontario Cease Trade Order 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 it would not be prejudicial to the public interest to revoke the Ontario Cease Trade Order;

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

DATED at Toronto, Ontario on this 06 day of February, 2017.

"Sonny Randhawa"
Deputy Director, Corporate Finance
Ontario Securities Commission

2.2.2 Black Panther Trading Corporation and Charles Robert Goddard

**IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5**

AND

**IN THE MATTER OF
BLACK PANTHER TRADING CORPORATION and
CHARLES ROBERT GODDARD**

ORDER

WHEREAS:

1. on October 13, 2015, Staff of the Ontario Securities Commission ("Staff") filed a Statement of Allegations, in which Staff sought an order against Black Panther Trading Corporation and Charles Robert Goddard (together, the "Respondents") pursuant to subsection 127(1) and section 127.1 of the *Securities Act* (the "Act");

2. on October 14, 2015, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in respect of that Statement of Allegations;

3. on January 30, 2017, following the hearing on the merits, the Commission issued its Reasons and Decision, in which it concluded that the Respondents had contravened the Act; and

4. the parties have agreed to deliver their submissions regarding sanctions and costs in writing according to the following schedule;

IT IS ORDERED that:

1. Staff shall serve and file written submissions on sanctions and costs on or before February 27, 2017;

2. the Respondents shall serve and file written submissions on sanctions and costs on or before March 13, 2017;

3. Staff shall serve and file written reply submissions, if any, on sanctions and costs on or before March 20, 2017; and

4. no further written submissions shall be filed.

DATED at Toronto, this 13th day of February, 2017.

"Timothy Moseley"

2.2.3 DirectCash Payments ULC

Headnote

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

Applicable Legislative Provisions

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

Citation: Re DirectCash Payments ULC, 2017 ABASC 19

February 8, 2017

**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
DIRECTCASH PAYMENTS ULC
(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, Nova Scotia, Prince Edward Island 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* or 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.

"Denise Weeres"
Manager, Legal
Corporate Finance

2.4 Rulings

2.4.1 RBS Securities Inc. – s. 38 of the CFA

Headnote

Application for a ruling pursuant to section 38 of the Commodity Futures Act granting relief from the dealer registration requirement set out in section 22 of the CFA in connection with acting as a clearing broker in Give-Up Transactions involving commodity futures contracts and options on commodity futures contracts on exchanges located in Canada (Canadian Futures) to, from or on behalf of Canadian institutional permitted clients (institutional investors) – relief limited to trades in Canadian futures for institutional permitted clients – relief subject to sunset clause.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 22, 38.

February 13, 2017

IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, c. C.20, AS AMENDED
(the CFA)

AND

IN THE MATTER OF
RBS SECURITIES INC.
(the Filer)

RULING
(Section 38 of the CFA)

UPON the application (the **Application**) of the Filer to the Ontario Securities Commission (the **Commission**) for a ruling of the Commission, pursuant to section 38 of the CFA, that:

(a) the Filer is not subject to the dealer registration requirement set out in section 22 of the CFA in connection with providing Clearing Broker Services (as defined below) in Give-Up Transactions (as defined below) involving exchange-traded futures on exchanges located in Canada (**Canadian Futures**) to, from or on behalf of Institutional Permitted Clients (defined below) (the **Ruling**); and

(b) an Institutional Permitted Client is not subject to the dealer registration requirement in the CFA in connection with receiving Clearing Broker Services (as defined below) in Give-Up Transactions (as defined below) in Canadian Futures from the Filer pursuant to the Ruling;

AND WHEREAS for the purposes of the Ruling "**Institutional Permitted Client**" shall mean a "permitted client" as defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions, and Ongoing Registrant Obligations* (**NI 31-103**), except for:

(a) an individual,

(b) a person or company acting on behalf of a managed account of an individual,

(c) a person or company referred to in paragraph (p) of that definition, unless the person or company qualifies as an Institutional Permitted Client under another paragraph of that definition, or

(d) a person or company referred to in paragraph (q) of that definition unless that person or company has net assets of at least $100 million as shown on its most recently prepared financial statements or qualifies as an Institutional Permitted Client under another paragraph of that definition;

and provided further that, for the purposes of the definition of "Institutional Permitted Client", a reference in the definition of "permitted client" in section 1.1. of NI 31-103 to "securities legislation" shall be read as "securities legislation or Ontario commodity futures law, as applicable".

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

AND UPON the Filer having represented to the Commission as follows:

1. The Filer is a corporation incorporated under the laws of the state of Delaware in the United States. Its head office is located at 600 Washington Boulevard, Stamford, Connecticut, 06901, United States of America. The Filer is wholly owned subsidiary of RBS Holdings USA Inc. (**RBSHI**). RBSHI is a wholly owned subsidiary of NatWest Group Holdings Corporation, which is an indirect wholly owned subsidiary of The Royal Bank of Scotland Group plc.

2. The Filer is registered as a broker-dealer with the U.S. Securities and Exchange Commission (**SEC**), a member of the U.S. Financial Industry Regulatory Authority (**FINRA**), a registered futures commission merchant (**FCM**) with the U.S. Commodity Futures Trading Commission (**CFTC**), and a member of the U.S. National Futures Association (**NFA**).

3. The Filer is a direct member of all major U.S. commodity futures exchanges.

4. In connection with its securities trading activities, the Filer relies on the “international dealer exemption” under section 8.18 of NI 31-103 in Alberta, British Columbia, Manitoba, Ontario and Quebec.

5. The Filer is not in default of securities legislation in any jurisdiction in Canada or under the CFA. The Filer is in compliance in all material respects with U.S. securities and commodity futures laws.

6. The Filer currently relies on an order dated June 14, 2016 under the CFA, *Re RBS Securities Inc.*, granting an exemption from the dealer registration requirement in connection with certain execution and clearing activities in commodity futures contracts and options on commodity futures contracts that trade on exchanges located outside of Canada.

7. The Filer wishes to act as a clearing broker with respect to Canadian Futures in the context of Give-Up Transactions (defined below) with Institutional Permitted Clients.

8. A **Give-Up Transaction** is a purchase or sale of futures contracts by a client that has an existing relationship with a clearing broker, but wishes to use the trade execution services of one or more other executing brokers for the purpose of executing such purchases or sales (**Subject Transactions**) on one or more markets. Under these circumstances, the executing broker executes the Subject Transactions as directed by the client and “gives up” such trades to the clearing broker for clearing, settlement, record-keeping, bookkeeping, custody and other administrative functions (**Clearing Broker Services**). The service provided by the executing broker is limited to trade execution only.

9. In a Give-Up Transaction, the clearing broker will maintain an account for the client that is administered in accordance with the terms and conditions of the account documentation of the clearing broker that has been signed by the client. The clearing broker will handle record keeping and collateral for the client. The client will not sign clearing account documentation with the executing broker, nor will the executing broker typically receive monies, margin or collateral directly from the client. Although the executing broker is responsible for its own record-keeping, bookkeeping, custody and other administrative functions (**Account Services**) in respect of its own clients, it does not, subject to any applicable regulatory requirements that may otherwise apply, provide Account Services for execution-only clients. Such Account Services remain the responsibility of the clearing broker. The clearing broker will have the primary relationship with the client and is contractually responsible for trade and risk monitoring as well as reporting trade confirmations and sending out monthly statements.

10. In order to enter into a Give-Up Transaction, a client will enter into a tri-party agreement, known as a “give-up agreement” (**Give-Up Agreement**), between an executing broker, a clearing broker, and the client. The Filer, as clearing broker, will generally use the *International Uniform Brokerage Execution Services (“Give-Up”) Agreement: Version 2008* (© Futures Industry Association, 2008), as may be revised from time to time, as the Give-Up Agreement entered into with Institutional Permitted Clients.

11. Each party to the Give-Up Agreement, including the Filer as clearing broker, will represent in the Give-Up Agreement that it will perform its obligations under the Give-Up Agreement in accordance with applicable laws, governmental, regulatory, self-regulatory, exchange or clearing house rules, regulations, interpretations, protocols and the customs and usages of the exchange or clearing house on which the transactions governed by the Give-Up Agreement are executed and cleared, as in force from time to time.

12. In Ontario, an Institutional Permitted Client would place orders for Canadian Futures for execution on Canadian futures exchanges with an Ontario-registered FCM, which would then be cleared locally on the applicable Canadian futures exchange by that Ontario-registered FCM (if qualified to do so) or another clearing member of the applicable Canadian futures exchange. The executed trades would be placed into a client omnibus account maintained by the Filer with the

clearing member of the applicable Canadian futures exchange that locally clears the trades, and the executed trades would be booked by the Filer to the futures account of the Ontario client maintained with the Filer for trading on exchanges globally. In this arrangement, the Ontario-registered FCM would be responsible for all client-facing interactions relating to the execution of the Canadian Futures.

13. In the case of a Montréal Exchange-listed futures contract, a member of the Canadian Derivatives Clearing Corporation (**CDCC**) would clear the trade on the Filer's behalf. Therefore, trade execution would be done by an Ontario-registered FCM, the positions would be held at CDCC by a CDCC member (which could be, but would not necessarily have to be, the executing broker) and given up to the Filer at which the Ontario Institutional Permitted Client maintains a clearing account. The Filer would then carry the resulting positions in an account maintained on its books by the Institutional Permitted Client, and the Filer would call for and collect applicable margin from the Institutional Permitted Client. The Filer, in turn, would remit the required margin to the CDCC member that cleared the trades. That CDCC member would then make the required margin payment(s) to CDCC.

14. In respect of holding client assets, in order to protect customers in the event of the insolvency or financial instability of the Filer, the Filer is required under U.S. law to ensure that customer securities and monies be separately accounted for, segregated at all times from the securities and monies of the Filer and custodied exclusively with such banks, trust companies, clearing organizations or other licensed futures brokers and intermediaries as may be approved for such purposes under the U.S. *Commodity Exchange Act* (**CEA**) and the rules promulgated by the CFTC thereunder (collectively, the **Approved Depositories**). The Filer is further required to obtain acknowledgements from any Approved Depository holding customer funds or securities related to U.S.-based transactions or accounts that such funds and securities are to be separately held on behalf of such customers, with no right of set-off against the Filer's obligations or debts.

15. As a registered broker-dealer and FCM, the Filer is subject to regulatory capital requirements under the CEA and *Securities Exchange Act of 1934* (the **1934 Act**), specifically CFTC Regulation 1.17 *Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers* (**CFTC Regulation 1.17**), SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers* (**SEC Rule 15c3-1**) and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers* (**SEC Rule 17a-5**).

16. SEC Rule 15c3-1 requires that the Filer account for any guarantee of debt of a third party in calculating its excess net capital when a loss is probable and the amount can be reasonably estimated. Accordingly, the Filer will, in the event that it provides a guarantee of any debt of a third party, take a deduction from net capital when both of the preceding conditions exist.

17. SEC Rule 15c3-1 and CFTC Regulation 1.17 are designed to provide protections that are substantially similar to the protections provided by the capital formula requirements and specifically risk adjusted capital to which dealer members of IIROC are subject. The Filer is in compliance with SEC Rule 15c3-1 and in compliance in all material respects with SEC Rule 17a-5. If the Filer's net capital declines below the minimum amount required, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 17a-11 *Notification Provisions for Brokers and Dealers* (**SEC Rule 17a-11**). The SEC and FINRA have the responsibility to provide oversight over the Filer's compliance with SEC Rule 15c3-1 and SEC Rule 17a-5.

18. The Filer is required to prepare and file a financial report, which includes Form X-17a-5 Financial and Operational Combined Uniform Single Report (the **FOCUS Report**), monthly with the CFTC, NFA, SEC and FINRA. The FOCUS Report provides a more comprehensive description of the business activities of the Filer, and more accurately reflects those activities including client lending activity, than would be provided by Form 31-103F1 *Calculation of Excess Working Capital* (**Form 31-103F1**). The FOCUS Report provides a net capital calculation and a comprehensive description of the business activities of the Filer. The net capital requirements computed using methods prescribed by SEC Rule 15c3-1 are based on all assets and liabilities on the books and records of a broker-dealer whereas Form 31-103F1 is a calculation of excess working capital, which is a computation based primarily on the current assets and current liabilities on the books and records of the dealer. The Filer is up-to-date in its submission of annual reports under SEC Rule 17a-5(d), including the FOCUS Report.

19. The Filer is a member of the Securities Investors Protection Corporation (**SIPC**). Subject to the eligibility criteria of SIPC, client assets held by the Filer in connection with its activities as a broker-dealer are insured by SIPC against loss due to insolvency in accordance with the Securities Investor Protection Act of 1970. There is no SIPC or similar insurance protection in connection with activities undertaken as a U.S. registered FCM.

20. The Filer is subject to CFTC Regulation 30.7 regarding cash, securities and other collateral that are deposited with a FCM or are otherwise required to be held for the benefit of its customers to margin futures and options on futures contracts traded on non-U.S. boards of trade, including Canadian Futures (**30.7 Customer Funds**). Accounts used to

hold 30.7 Customer Funds must be properly titled to make clear that the funds belong to, and are being held for the benefit of, the FCM's customers who are trading foreign (i.e. non-U.S.) futures and futures options.

21. 30.7 Customer Funds may not be commingled with the funds of any other person, including the carrying FCM, except that the carrying FCM may deposit its own funds into the account containing 30.7 Customer Funds in order to prevent the accounts of the customers from becoming under-margined. Each Approved Depository (except for a derivatives clearing organization with specified rules) is required to provide the depositing FCM with a written acknowledgment that the depository was informed that such funds held in the customer account belong to customers and are being held in accordance with the CEA and CFTC Regulations. Among other representations, the depository must acknowledge that it cannot use any portion of 30.7 Customer Funds to satisfy any obligations that the FCM may owe the depository. The types of investments permitted for 30.7 Funds are restricted by CFTC Regulation 30.7(h), which refers to the list of permitted investments set forth in CFTC Regulation 1.25. The FCM is required, on a daily basis, to compute and submit to regulatory authorities a statement of the amounts of 30.7 Customer Funds held by the FCM.

22. In the event of a FCM's bankruptcy, funds allocated to each account class (i.e., the customer segregated, 30.7 secured amount and cleared swaps customer account classes established pursuant to CFTC Regulations 1.20, 30.7 and 22.2, respectively) or readily traceable to an account class must be allocated solely to that customer account class. The U.S. Bankruptcy Code also provides that non-defaulting customers in an account class that has incurred a loss will share in any shortfall, pro rata. However, customers whose funds are held in another account class that has not incurred a loss will not be required to share in such shortfall.

23. The Filer holds customer assets in accordance with Rule 15c3-3 of the 1934 Act, as amended (**SEC Rule 15c3-3**). SEC Rule 15c3-3 requires the Filer to segregate and keep segregated all "fully-paid securities" and "excess margin securities" (as such terms are defined in SEC Rule 15c3-3) of its customers from its proprietary assets. In addition to the segregation of customers' securities, SEC Rule 15c3-3 requires the Filer to deposit an amount of cash or qualified government securities determined in accordance with a reserve formula set forth in SEC Rule 15c3-3 in an account entitled "Special Reserve Account for the Exclusive Benefit of Customers" of such Filer at separate banks and/or custodians. The combination of segregated securities and cash reserve are designed to ensure that the Filer has sufficient assets to cover all net equity claims of its customers and provide protections that are substantially similar to the protections provided by the requirements dealer members of IIROC are subject. If the Filer fails to make an appropriate deposit, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 15c3-3(i). The Filer is in material compliance with the possession and control requirements of SEC Rule 15c3-3.

24. The Filer is subject to regulations of the Board of Governors of the U.S.A. Federal Reserve Board (**FRB**), the SEC, and FINRA regarding the lending of money, extension of credit and provision of margin to clients (the **U.S. Margin Regulations**) that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of IIROC are subject. In particular, the Filer is subject to the margin requirements imposed by the FRB, including Regulation T, and under applicable SEC rules and under FINRA Rule 4210. The Filer is in material compliance with all applicable U.S. Margin Regulations.

25. Section 22 of the CFA provides that no person may trade in a commodity futures contract or a commodity futures option unless the person is registered as a dealer [*Futures Commission Merchant*], or as a representative of the dealer, or an exemption from the registration requirement is available. The Filer's activities in providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients may constitute trading in Canadian Futures.

26. The Filer's activities in providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients may also constitute trading in Canadian Futures by Institutional Permitted Clients. Institutional Permitted Clients may be unable to rely on the exemptions from the dealer registration requirement in the CFA because the Filer is not a registered dealer. Accordingly, the Filer is also seeking exemptive relief pursuant to the Ruling for Institutional Permitted Clients that receive Clearing Broker Services from the Filer.

27. The Filer believes that it would be beneficial to Institutional Permitted Clients in Ontario that trade in the international futures markets for the Filer to act as a clearing broker for both Canadian and non-Canadian futures for the Institutional Permitted Client because such an arrangement would enable the Institutional Permitted Client to benefit from significant efficiencies in collateral usage and consolidated reporting. Benefits would include single margin calls/payments, single wire transfer, ease of reconciliation, netting and cross product margining.

28. Clients may seek clearing services from the Filer in order to separate the execution of a trade from the clearing and settlement of a trade. This allows clients to use many executing brokers, without maintaining an active, ongoing clearing account with each executing broker. It also allows the client to consolidate the clearing and settlement of Canadian Futures in an account with the Filer.

29. The Filer does not dictate to its clients the executing brokers through which clients may execute trades. Clients are free to directly select their executing broker. Clients send orders to the executing broker who carries out the trade. The executing broker will be an appropriately registered dealer or a person or company relying on an exemption from dealer registration that permits it to execute the trade for clients.

30. The Filer is a "market participant" as defined under subsection 1(1) of the CFA. As a market participant, among other requirements, the Filer is required to comply with the record keeping and provision of information provisions under section 14 of the CFA, which include the requirement to keep such books, records and other documents (a) as are necessary for the proper recording of business transactions and financial affairs, and the transactions executed on behalf of others, (b) as may otherwise be required under Ontario commodity futures law, and (c) as may reasonably be required to demonstrate compliance with Ontario commodity futures laws, and to deliver such records to the Commission if required.

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

IT IS RULED, pursuant to section 38 of the CFA, that the Filer is not subject to the dealer registration requirement set out in the CFA in connection with providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients so long as the Filer:

(a) has its head office or principal place of business in the U.S.;

(b) is registered as a FCM with the CFTC and engages in the business of an FCM in the U.S., and is registered as a broker-dealer under the securities legislation of the U.S. and engages in the business of a broker-dealer in the U.S.;

(c) is a member firm of the NFA and FINRA;

(d) is a member of SIPC;

(e) is subject to requirements over regulatory capital, lending of money, extension of credit and provision of margin, financial reporting to the SEC and FINRA, and/or the CFTC and NFA, and segregation and custody of assets which provide protections that are substantially similar to the protections provided by the rules to which dealer members of IIROC are subject;

(f) limits its provision of Clearing Broker Services in respect of Give-Up Transactions involving Canadian Futures to Institutional Permitted Clients in Ontario;

(g) does not execute trades in Canadian Futures with or for Institutional Permitted Clients in Ontario, except as permitted under applicable Ontario securities or commodities futures laws;

(h) does not require its clients to use specific executing brokers through which clients may execute trades;

(i) notifies the OSC of any regulatory action initiated after the date of this decision in respect of the Filer, or any predecessors or specified affiliates of the Filer, by completing and filing with the OSC Appendix "B" hereto within ten days of the commencement of any such action; provided that the Filer may also satisfy this condition by filing with the OSC within ten days of the date of this decision a notice making reference to and incorporating by reference the disclosure made by the Filer pursuant to U.S. federal securities laws that is identified in the FINRA BrokerCheck system, and any updates to such disclosure that may be made from time to time, and by providing notification, in a manner reasonably acceptable to the Director, of any filing of a Form BD 'Regulatory Action Disclosure Reporting Page';

(j) submits the financial report and compliance report as described in SEC Rule 17a-5(d) to the OSC on an annual basis, at the same time such reports are filed with the SEC and FINRA;

(k) submits audited financial statements to the OSC on an annual basis, within 90 days of the Filer's financial year end;

(l) submits to the OSC immediately a copy of any notice filed under SEC Rule 17a-11 or under SEC Rule 15c3-3(i) with the SEC and FINRA;

(m) complies with the filing and fee payment requirements applicable to a registrant under OSC Rule 13-502 *Fees*; provided that, if the Filer does not rely on the international dealer exemption in section 8.18 of NI 31-103 (the **IDE**), by December 31st of each year, the Filer pays a participation fee based on its specified Ontario

revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of OSC Rule 13-502 Fees as if the Filer relied on the IDE;

(n) files in an electronic and searchable format with the OSC such reports as to any or all of its trading activities in Canada as the OSC may, upon notice, require from time to time;

(o) pays the increased compliance and case assessment costs of the OSC due to the Filer's location outside Ontario, including, as required, the reasonable cost of hiring a third party to perform a compliance review on behalf of the OSC;

(p) has provided to each Institutional Permitted Client the following disclosure in writing:

(i) a statement that the Filer is not registered in Ontario to trade in Canadian Futures as principal or agent;

(ii) a statement that the Filer's head office or principal place of business is located in Stamford, Connecticut, U.S.;

(iii) a statement that all or substantially all of the Filer's assets may be situated outside of Canada;

(iv) a statement that there may be difficulty enforcing legal rights against the Filer because of the above; and

(v) the name and address of the Filer's agent for service of process in Ontario; and

(q) has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix "A" hereto.

This Decision will terminate on the earliest of:

(i) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;

(ii) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the dealer registration requirements in the CFA or the trading restrictions in the CFA; and

(iii) five years after the date of this Decision.

AND IT IS FURTHER RULED, pursuant to section 38 of the CFA, that an Institutional Permitted Client is not subject to the dealer registration requirement in the CFA in connection with trades in Canadian Futures when receiving Clearing Broker Services in Give-Up Transactions where the Filer acts in connection with trades in Canadian Futures on behalf of the Institutional Permitted Client from the Filer pursuant to the above ruling.

"D. Grant Vingoe"
Vice-Chair
Ontario Securities Commission

"Monica Kowal"
Vice-Chair
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION UNDER THE COMMODITY FUTURES ACT, ONTARIO

1. Name of person or company ("International Firm"):

2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

   Name:
   E-mail address:
   Phone:
   Fax:

6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):

   ☐ Section 8.18 [*international dealer*]

   ☐ Section 8.26 [*international adviser*]

   ☐ Other

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

8. Address for service of process on the Agent for Service:

9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.

10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.

11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator

    a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;

    b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service;

    c. a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.

12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _______________

____
(Signature of the International Firm or authorized signatory)

____
(Name of signatory)

____
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of _______________ [Insert name of International Firm] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: ____________________

____
(Signature of the Agent for Service or authorized signatory)

____
(Name of signatory)

____
(Title of signatory)

This form, and notice of a change to any information submitted in this form, is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates[1] of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

   Yes _____ No _____

   If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

		Yes	No
a)	Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	___	___
(b)	Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	___	___
(c)	Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	___	___
(d)	Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	___	___
(e)	Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	___	___
(f)	Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	___	___
(g)	Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	___	___

If yes, provide the following information for each action:

Name of entity	
Type of action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

[1] In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliates is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm/dd)
Jurisdiction

Name of firm:
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)

This form is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

2.4.2 UBS Securities LLC – s. 38 of the CFA

Headnote

Application for a ruling pursuant to section 38 of the Commodity Futures Act granting relief from the dealer registration requirement set out in section 22 of the CFA in connection with acting as a clearing broker in Give-Up Transactions involving commodity futures contracts and options on commodity futures contracts on exchanges located in Canada (Canadian Futures) to, from or on behalf of Canadian institutional permitted clients (institutional investors) – relief limited to trades in Canadian futures for institutional permitted clients – relief subject to sunset clause.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 22, 38.

February 13, 2017

IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, c. C. 20, AS AMENDED
(the CFA)

AND

IN THE MATTER OF
UBS SECURITIES LLC
(the Filer)

RULING
(Section 38 of the CFA)

UPON the application (the **Application**) of the Filer to the Ontario Securities Commission (the **Commission**) for a ruling of the Commission, pursuant to section 38 of the CFA, that:

(a) the Filer is not subject to the dealer registration requirement set out in section 22 of the CFA in connection with providing Clearing Broker Services (as defined below) in Give-Up Transactions (as defined below) involving exchange-traded futures on exchanges located in Canada (**Canadian Futures**) to, from or on behalf of Institutional Permitted Clients (defined below) (the **Ruling**); and

(b) an Institutional Permitted Client is not subject to the dealer registration requirement in the CFA in connection with receiving Clearing Broker Services (as defined below) in Give-Up Transactions (as defined below) in Canadian Futures from the Filer pursuant to the Ruling;

AND WHEREAS for the purposes of the Ruling "**Institutional Permitted Client**" shall mean a "permitted client" as defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions, and Ongoing Registrant Obligations* (**NI 31-103**), except for:

(a) an individual,

(b) a person or company acting on behalf of a managed account of an individual,

(c) a person or company referred to in paragraph (p) of that definition, unless the person or company qualifies as an Institutional Permitted Client under another paragraph of that definition, or

(d) a person or company referred to in paragraph (q) of that definition unless that person or company has net assets of at least $100 million as shown on its most recently prepared financial statements or qualifies as an Institutional Permitted Client under another paragraph of that definition;

and provided further that, for the purposes of the definition of "Institutional Permitted Client", a reference in the definition of "permitted client" in section 1.1. of NI 31-103 to "securities legislation" shall be read as "securities legislation or Ontario commodity futures law, as applicable".

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

AND UPON the Filer having represented to the Commission as follows:

1. The Filer is a limited liability company organized under the laws of the State of Delaware, United States of America (**U.S.**). Its head office is located at 1285 Avenue of the Americas, New York, NY 10019. The Filer is an indirect wholly owned subsidiary of UBS AG, a publicly owned Swiss banking corporation.

2. The Filer is registered as a broker-dealer with the U.S. Securities and Exchange Commission (**SEC**), a member of the U.S. Financial Industry Regulatory Authority (**FINRA**), a registered futures commission merchant (**FCM**) with the U.S. Commodity Futures Trading Commission (**CFTC**), and a member of the U.S. National Futures Association (**NFA**).

3. The Filer is a member of a number of major U.S. securities exchanges, including the New York Stock Exchange and NASDAQ. The Filer is a Foreign Approved Participant of the Montreal Exchange and a Registered Futures Commission Merchant of ICE Futures Canada, Inc. The Filer is also a member of the Chicago Board of Trade, the Chicago Mercantile Exchange, ICE Futures Exchange, and other principal U.S. commodity exchanges and trades through affiliated or unaffiliated member firms on other exchanges, including exchanges in Canada, France, Italy, Japan, Singapore, Spain, Taiwan, Mexico, Korea and the United Kingdom.

4. In connection with its securities trading activities, the Filer relies on the "international dealer exemption" under section 8.18 of NI 31-103 in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Québec and Saskatchewan.

5. The Filer is not in default of securities legislation in any jurisdiction in Canada or under the CFA. The Filer is in compliance in all material respects with U.S. securities and commodity futures laws.

6. UBS Securities Canada Inc. (**UBSSC**) is an affiliate of the Filer. UBSSC is registered as an investment dealer in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Quebec and Saskatchewan and is a dealer member of the Investment Industry Regulatory Organization of Canada (**IIROC**).

7. The Filer currently relies on an order dated August 22, 2008 under the CFA, Re UBS Securities LLC (the **Prior Order**), granting an exemption from the dealer registration requirement in connection with certain execution and clearing activities in commodity futures contracts and options on commodity futures contracts that trade on exchanges located outside of Canada or that trade on exchanges that are located in Canada but are routed through an agent that is a dealer registered in Ontario under the CFA.

8. The Filer wishes to act as a clearing broker with respect to Canadian Futures in the context of Give-Up Transactions (defined below) with Institutional Permitted Clients.

9. A **Give-Up Transaction** is a purchase or sale of futures contracts by a client that has an existing relationship with a clearing broker, but wishes to use the trade execution services of one or more other executing brokers for the purpose of executing such purchases or sales (**Subject Transactions**) on one or more markets. Under these circumstances, the executing broker executes the Subject Transactions as directed by the client and "gives up" such trades to the clearing broker for clearing, settlement, record-keeping, bookkeeping, custody and other administrative functions (**Clearing Broker Services**). The service provided by the executing broker is limited to trade execution only.

10. In a Give-Up Transaction, the clearing broker will maintain an account for the client that is administered in accordance with the terms and conditions of the account documentation of the clearing broker that has been signed by the client. The clearing broker will handle record keeping and collateral for the client. The client will not sign clearing account documentation with the executing broker, nor will the executing broker typically receive monies, margin or collateral directly from the client. Although the executing broker is responsible for its own record-keeping, bookkeeping, custody and other administrative functions (**Account Services**) in respect of its own clients, it does not, subject to any applicable regulatory requirements that may otherwise apply, provide Account Services for execution-only clients. Such Account Services remain the responsibility of the clearing broker. The clearing broker will have the primary relationship with the client and is contractually responsible for trade and risk monitoring as well as reporting trade confirmations and sending out monthly statements.

11. In order to enter into a Give-Up Transaction, a client will enter into a tri-party agreement, known as a "give-up agreement" (**Give-Up Agreement**), between an executing broker, a clearing broker, and the client. The Filer, as clearing broker, will generally use the *International Uniform Brokerage Execution Services ("Give-Up") Agreement: Version 2008* (© Futures Industry Association, 2008), as may be revised from time to time, as the Give-Up Agreement entered into with Institutional Permitted Clients.

12. Each party to the Give-Up Agreement, including the Filer as clearing broker, will represent in the Give-Up Agreement that it will perform its obligations under the Give-Up Agreement in accordance with applicable laws, governmental,

regulatory, self-regulatory, exchange or clearing house rules, regulations, interpretations, protocols and the customs and usages of the exchange or clearing house on which the transactions governed by the Give-Up Agreement are executed and cleared, as in force from time to time.

13. In Ontario, an Institutional Permitted Client would place orders for Canadian Futures for execution on Canadian futures exchanges with an Ontario-registered FCM, which would then be cleared locally on the applicable Canadian futures exchange by that Ontario-registered FCM (if qualified to do so) or another clearing member of the applicable Canadian futures exchange. The executed trades would be placed into a client omnibus account maintained by the Filer with the clearing member of the applicable Canadian futures exchange that locally clears the trades, and the executed trades would be booked by the Filer to the futures account of the Ontario client maintained with the Filer for trading on exchanges globally. In this arrangement, the Ontario-registered FCM would be responsible for all client-facing interactions relating to the execution of the Canadian Futures.

14. In the case of a Montréal Exchange-listed futures contract, a member of the Canadian Derivatives Clearing Corporation (**CDCC**) would clear the trade on the Filer's behalf. Therefore, trade execution would be done by an Ontario-registered FCM, the positions would be held at CDCC by a CDCC member (which could be, but would not necessarily have to be, the executing broker) and given up to the Filer at which the Ontario Institutional Permitted Client maintains a clearing account. The Filer would then carry the resulting positions in an account maintained on its books by the Institutional Permitted Client, and the Filer would call for and collect applicable margin from the Institutional Permitted Client. The Filer, in turn, would remit the required margin to the CDCC member that cleared the trades. That CDCC member would then make the required margin payment(s) to CDCC.

15. In respect of holding client assets, in order to protect customers in the event of the insolvency or financial instability of the Filer, the Filer is required under U.S. law to ensure that customer securities and monies be separately accounted for, segregated at all times from the securities and monies of the Filer and custodied exclusively with such banks, trust companies, clearing organizations or other licensed futures brokers and intermediaries as may be approved for such purposes under the U.S. *Commodity Exchange Act* (**CEA**) and the rules promulgated by the CFTC thereunder (collectively, the **Approved Depositories**). The Filer is further required to obtain acknowledgements from any Approved Depository holding customer funds or securities related to U.S.-based transactions or accounts that such funds and securities are to be separately held on behalf of such customers, with no right of set-off against the Filer's obligations or debts.

16. As a U.S. registered broker-dealer and FCM, the Filer is subject to regulatory capital requirements under the CEA and *Securities Exchange Act of 1934* (the **1934 Act**), specifically CFTC Regulation 1.17 *Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers* (**CFTC Regulation 1.17**), SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers* (**SEC Rule 15c3-1**) and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers* (**SEC Rule 17a-5**).

17. SEC Rule 15c3-1 requires that the Filer account for any guarantee of debt of a third party in calculating its excess net capital when a loss is probable and the amount can be reasonably estimated. Accordingly, the Filer will, in the event that it provides a guarantee of any debt of a third party, take a deduction from net capital when both of the preceding conditions exist.

18. SEC Rule 15c3-1 and CFTC Regulation 1.17 are designed to provide protections that are substantially similar to the protections provided by the capital formula requirements and specifically risk adjusted capital to which dealer members of IIROC are subject. The Filer is in compliance with SEC Rule 15c3-1 and in compliance in all material respects with SEC Rule 17a-5. If the Filer's net capital declines below the minimum amount required, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 17a-11 *Notification Provisions for Brokers and Dealers* (**SEC Rule 17a-11**). The SEC and FINRA have the responsibility to provide oversight over the Filer's compliance with SEC Rule 15c3-1 and SEC Rule 17a-5.

19. The Filer is required to prepare and file a financial report, which includes Form X-17a-5 Financial and Operational Combined Uniform Single Report (the **FOCUS Report**), monthly with the CFTC, NFA, SEC and FINRA. The FOCUS Report provides a more comprehensive description of the business activities of the Filer, and more accurately reflects those activities including client lending activity, than would be provided by Form 31-103F1 *Calculation of Excess Working Capital* (**Form 31-103F1**). The FOCUS Report provides a net capital calculation and a comprehensive description of the business activities of the Filer. The net capital requirements computed using methods prescribed by SEC Rule 15c3-1 are based on all assets and liabilities on the books and records of a broker-dealer whereas Form 31-103F1 is a calculation of excess working capital, which is a computation based primarily on the current assets and current liabilities on the books and records of the dealer. The Filer is up-to-date in its submission of annual reports under SEC Rule 17a-5(d), including the FOCUS Report.

20. The Filer is a member of the Securities Investors Protection Corporation (**SIPC**). Subject to the eligibility criteria of SIPC, client assets held by the Filer in connection with its activities as a broker-dealer are insured by SIPC against loss due to insolvency in accordance with the Securities Investor Protection Act of 1970. There is no SIPC or similar insurance protection in connection with activities undertaken as a U.S. registered FCM.

21. The Filer is subject to CFTC Regulation 30.7 regarding cash, securities and other collateral that are deposited with a FCM or are otherwise required to be held for the benefit of its customers to margin futures and options on futures contracts traded on non-U.S. boards of trade, including Canadian Futures (**30.7 Customer Funds**). Accounts used to hold 30.7 Customer Funds must be properly titled to make clear that the funds belong to, and are being held for the benefit of, the FCM's customers who are trading foreign (i.e. non-U.S.) futures and futures options.

22. 30.7 Customer Funds may not be commingled with the funds of any other person, including the carrying FCM, except that the carrying FCM may deposit its own funds into the account containing 30.7 Customer Funds in order to prevent the accounts of the customers from becoming under-margined. Each Approved Depository (except for a derivatives clearing organization with specified rules) is required to provide the depositing FCM with a written acknowledgment that the depository was informed that such funds held in the customer account belong to customers and are being held in accordance with the CEA and CFTC Regulations. Among other representations, the depository must acknowledge that it cannot use any portion of 30.7 Customer Funds to satisfy any obligations that the FCM may owe the depository. The types of investments permitted for 30.7 Funds are restricted by CFTC Regulation 30.7(h), which refers to the list of permitted investments set forth in CFTC Regulation 1.25. The FCM is required, on a daily basis, to compute and submit to regulatory authorities a statement of the amounts of 30.7 Customer Funds held by the FCM.

23. In the event of a FCM's bankruptcy, funds allocated to each account class (i.e., the customer segregated, 30.7 secured amount and cleared swaps customer account classes established pursuant to CFTC Regulations 1.20, 30.7 and 22.2, respectively) or readily traceable to an account class must be allocated solely to that customer account class. The U.S. Bankruptcy Code also provides that non-defaulting customers in an account class that has incurred a loss will share in any shortfall, pro rata. However, customers whose funds are held in another account class that has not incurred a loss will not be required to share in such shortfall.

24. The Filer holds customer assets in accordance with Rule 15c3-3 of the 1934 Act, as amended (**SEC Rule 15c3-3**). SEC Rule 15c3-3 requires the Filer to segregate and keep segregated all "fully-paid securities" and "excess margin securities" (as such terms are defined in SEC Rule 15c3-3) of its customers from its proprietary assets. In addition to the segregation of customers' securities, SEC Rule 15c3-3 requires the Filer to deposit an amount of cash or qualified government securities determined in accordance with a reserve formula set forth in SEC Rule 15c3-3 in an account entitled "Special Reserve Account for the Exclusive Benefit of Customers" of such Filer at separate banks and/or custodians. The combination of segregated securities and cash reserve are designed to ensure that the Filer has sufficient assets to cover all net equity claims of its customers and provide protections that are substantially similar to the protections provided by the requirements dealer members of IIROC are subject. If the Filer fails to make an appropriate deposit, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 15c3-3(i). The Filer is in material compliance with the possession and control requirements of SEC Rule 15c3-3.

25. The Filer is subject to regulations of the Board of Governors of the U.S.A. Federal Reserve Board (**FRB**), the SEC, and FINRA regarding the lending of money, extension of credit and provision of margin to clients (the **U.S. Margin Regulations**) that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of IIROC are subject. In particular, the Filer is subject to the margin requirements imposed by the FRB, including Regulation T, and under applicable SEC rules and under FINRA Rule 4210. The Filer is in material compliance with all applicable U.S. Margin Regulations.

26. Section 22 of the CFA provides that no person may trade in a commodity futures contract or a commodity futures option unless the person is registered as a dealer [*Futures Commission Merchant*], or as a representative of the dealer, or an exemption from the registration requirement is available. The Filer's activities in providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients may constitute trading in Canadian Futures.

27. The Filer's activities in providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients may also constitute trading in Canadian Futures by Institutional Permitted Clients. Institutional Permitted Clients may be unable to rely on the exemptions from the dealer registration requirement in the CFA because the Filer is not a registered dealer. Accordingly, the Filer is also seeking exemptive relief pursuant to the Ruling for Institutional Permitted Clients that receive Clearing Broker Services from the Filer.

28. The Filer believes that it would be beneficial to Institutional Permitted Clients in Ontario that trade in the international futures markets for the Filer to act as a clearing broker for both Canadian and non-Canadian futures for the Institutional

Permitted Client because such an arrangement would enable the Institutional Permitted Client to benefit from significant efficiencies in collateral usage and consolidated reporting. Benefits would include single margin calls/payments, single wire transfer, ease of reconciliation, netting and cross product margining.

29. Clients may seek clearing services from the Filer in order to separate the execution of a trade from the clearing and settlement of a trade. This allows clients to use many executing brokers, without maintaining an active, ongoing clearing account with each executing broker. It also allows the client to consolidate the clearing and settlement of Canadian Futures in an account with the Filer

30. The Filer does not dictate to its clients the executing brokers through which clients may execute trades. Clients are free to directly select their executing broker. Clients send orders to the executing broker who carries out the trade. The executing broker will be an appropriately registered dealer or a person or company relying on an exemption from dealer registration that permits it to execute the trade for clients.

31. The Filer is a "market participant" as defined under subsection 1(1) of the CFA. As a market participant, among other requirements, the Filer is required to comply with the record keeping and provision of information provisions under section 14 of the CFA, which include the requirement to keep such books, records and other documents (a) as are necessary for the proper recording of business transactions and financial affairs, and the transactions executed on behalf of others, (b) as may otherwise be required under Ontario commodity futures law, and (c) as may reasonably be required to demonstrate compliance with Ontario commodity futures laws, and to deliver such records to the Commission if required.

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

IT IS RULED, pursuant to section 38 of the CFA, that the Filer is not subject to the dealer registration requirement set out in the CFA in connection with providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients so long as the Filer:

(a) has its head office or principal place of business in the U.S.;

(b) is registered as a FCM with the CFTC and engages in the business of an FCM in the U.S., and is registered as a broker-dealer under the securities legislation of the U.S. and engages in the business of a broker-dealer in the U.S.;

(c) is a member firm of the NFA and FINRA;

(d) is a member of SIPC;

(e) is subject to requirements over regulatory capital, lending of money, extension of credit and provision of margin, financial reporting to the SEC and FINRA, and/or the CFTC and NFA, and segregation and custody of assets which provide protections that are substantially similar to the protections provided by the rules to which dealer members of IIROC are subject;

(f) limits its provision of Clearing Broker Services in respect of Give-Up Transactions involving Canadian Futures to Institutional Permitted Clients in Ontario;

(g) does not execute trades in Canadian Futures with or for Institutional Permitted Clients in Ontario, except as permitted under applicable Ontario securities or commodities futures laws;

(h) does not require its clients to use specific executing brokers through which clients may execute trades;

(i) notifies the OSC of any regulatory action initiated after the date of this decision in respect of the Filer, or any predecessors or specified affiliates of the Filer, by completing and filing with the OSC Appendix "B" hereto within ten days of the commencement of any such action; provided that the Filer may also satisfy this condition by filing with the OSC within ten days of the date of this decision a notice making reference to and incorporating by reference the disclosure made by the Filer pursuant to U.S. federal securities laws that is identified in the FINRA BrokerCheck system, and any updates to such disclosure that may be made from time to time, and by providing notification, in a manner reasonably acceptable to the Director, of any filing of a Form BD 'Regulatory Action Disclosure Reporting Page';

(j) submits the financial report and compliance report as described in SEC Rule 17a-5(d) to the OSC on an annual basis, at the same time such reports are filed with the SEC and FINRA;

(k) submits audited financial statements to the OSC on an annual basis, within 90 days of the Filer's financial year end;

(l) submits to the OSC immediately a copy of any notice filed under SEC Rule 17a-11 or under SEC Rule 15c3-3(i) with the SEC and FINRA;

(m) complies with the filing and fee payment requirements applicable to a registrant under OSC Rule 13-502 *Fees*; provided that, if the Filer does not rely on the international dealer exemption in section 8.18 of NI 31-103 (the **IDE**), by December 31st of each year, the Filer pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of OSC Rule 13-502 Fees as if the Filer relied on the IDE;

(n) files in an electronic and searchable format with the OSC such reports as to any or all of its trading activities in Canada as the OSC may, upon notice, require from time to time;

(o) pays the increased compliance and case assessment costs of the OSC due to the Filer's location outside Ontario, including, as required, the reasonable cost of hiring a third party to perform a compliance review on behalf of the OSC;

(p) has provided to each Institutional Permitted Client the following disclosure in writing:

(i) a statement that the Filer is not registered in Ontario to trade in Canadian Futures as principal or agent;

(ii) a statement that the Filer's head office or principal place of business is located in New York, New York, U.S.;

(iii) a statement that all or substantially all of the Filer's assets may be situated outside of Canada;

(iv) a statement that there may be difficulty enforcing legal rights against the Filer because of the above; and

(v) the name and address of the Filer's agent for service of process in Ontario; and

(q) has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix "A" hereto.

This Decision will terminate on the earliest of:

(i) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;

(ii) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the dealer registration requirements in the CFA or the trading restrictions in the CFA; and

(iii) five years after the date of this Decision.

AND IT IS FURTHER RULED, pursuant to section 38 of the CFA, that an Institutional Permitted Client is not subject to the dealer registration requirement in the CFA in connection with trades in Canadian Futures when receiving Clearing Broker Services in Give-Up Transactions where the Filer acts in connection with trades in Canadian Futures on behalf of the Institutional Permitted Client from the Filer pursuant to the above ruling.

"D. Grant Vingoe"
Vice-Chair
Ontario Securities Commission

"Monica Kowal"
Vice-Chair or Commissioner
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION UNDER THE COMMODITY FUTURES ACT, ONTARIO

1. Name of person or company ("International Firm"):

2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

   Name:
   E-mail address:
   Phone:
   Fax:

6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):

   ☐ Section 8.18 [*international dealer*]

   ☐ Section 8.26 [*international adviser*]

   ☐ Other

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

8. Address for service of process on the Agent for Service:

9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.

10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.

11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator

    a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;

    b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service;

    c. a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.

12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _______________

____
(Signature of the International Firm or authorized signatory)

____
(Name of signatory)

____
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of _______________ [Insert name of International Firm] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: ____________________

____
(Signature of the Agent for Service or authorized signatory)

____
(Name of signatory)

____
(Title of signatory)

This form, and notice of a change to any information submitted in this form, is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates[1] of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

   Yes _____ No _____

   If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

		Yes	No
a)	Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	___	___
(b)	Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	___	___
(c)	Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	___	___
(d)	Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	___	___
(e)	Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	___	___
(f)	Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	___	___
(g)	Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	___	___

   If yes, provide the following information for each action:

Name of entity	
Type of action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

[1] In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliates is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm/dd)
Jurisdiction

Name of firm:
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)

This form is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

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Chapter 4

Cease Trading Orders

4.1.1 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

THERE IS NOTHING TO REPORT THIS WEEK.

4.2.1 Temporary, Permanent & Rescinding Management 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

THERE IS NOTHING TO REPORT THIS WEEK.

4.2.2 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
AlarmForce Industries Inc.	19 September 2016	30 September 2016	30 September 2016		
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		
Quest Rare Minerals Ltd.	02 February 2017	15 February 2017			

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Chapter 5

Rules and Policies

5.1.1 Amendments to OSC Rule 13-502 Fees and OSC Rule 13-503 (Commodity Futures Act) Fees

AMENDMENT TO
OSC RULE 13-502 *FEES*

1. Ontario Securities Rule 13-502 Fees is amended by this Instrument.

2. Section 7.1 is replaced with the following:

7.1 **Canadian dollars** − If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date, and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily exchange rate for the last business day preceding the particular date as posted on the Bank of Canada website.

3. This Instrument comes into force on March 1, 2017.

AMENDMENT TO
OSC RULE 13-503 *(COMMODITY FUTURES ACT) FEES*

1. Ontario Securities Rule 13-503 (Commodity Futures Act) Fees is amended by this Instrument.

2. Section 4.1 is replaced with the following:

4.1 **Canadian dollars** − If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date, and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily exchange rate for the last business day preceding the particular date as posted on the Bank of Canada website.

3. This Instrument comes into force on March 1, 2017.

5.1.2 Amendments to National Instrument 81-102 Investment Funds

AMENDMENTS TO
NATIONAL INSTRUMENT 81-102 *INVESTMENT FUNDS*

1. National Instrument 81-102 Investment Funds is amended by this Instrument.

2. The Instrument is amended by adding the following Part:

PART 15.1 INVESTMENT RISK CLASSIFICATION METHODOLOGY

15.1.1 Use of Investment Risk Classification Methodology – A mutual fund must

(a) determine its investment risk level, at least annually, in accordance with Appendix F *Investment Risk Classification Methodology* and

(b) disclose its investment risk level in the fund facts document in accordance with Part I, Item 4 of Form 81-101F3, or the ETF facts document in accordance with Part I, Item 4 of Form 41-101F4, as applicable**.**

3. The Instrument is amended by adding the following Appendix F:

APPENDIX F

INVESTMENT RISK CLASSIFICATION METHODOLOGY

Commentary

This Appendix contains rules and accompanying commentary on those rules. Each member jurisdiction of the CSA has made these rules under authority granted to it under the securities legislation of its jurisdiction.
The commentary explains the implications of a rule, offer examples or indicate different ways to comply with a rule. It may expand on a particular subject without being exhaustive. The commentary is not legally binding, but it does reflect the views of the CSA. Commentary always appears in italics and is titled "Commentary."

Item 1 Investment risk level

(1) Subject to subsection (2), to determine the "investment risk level" of a mutual fund,

(a) determine the mutual fund's standard deviation in accordance with Item 2 and, as applicable, Item 3, 4 or 5,

(b) in the table below, locate the range of standard deviation within which the mutual fund's standard deviation falls, and

(c) identify the investment risk level set opposite the applicable range.

Standard Deviation Range	Investment Risk Level
0 to less than 6	Low
6 to less than 11	Low to medium
11 to less than 16	Medium
16 to less than 20	Medium to High
20 or greater	High

(2) Despite subsection (1), the investment risk level of a mutual fund may be increased if doing so is reasonable in the circumstances.

(3) A mutual fund must keep and maintain records that document:

(a) how the investment risk level of a mutual fund was determined, and

(b) if the investment risk level of a mutual fund was increased, why it was reasonable to do so in the circumstances.

Commentary:

(1) The investment risk level may be determined more frequently than annually. Generally, the investment risk level must be determined again whenever it is no longer reasonable in the circumstances.

(2) Generally, a change to the mutual fund's investment risk level disclosed on the most recently filed fund facts document or ETF facts document, as applicable, would be a material change under securities legislation in accordance with Part 11 of National Instrument 81-106 Investment Fund Continuous Disclosure.

Item 2 Standard deviation

(1) A mutual fund must calculate its standard deviation for the most recent 10 years as follows:

Standard Deviation	$\sqrt{12}\times\sqrt{\frac{1}{n-1}\sum_{i=1}^{n}(R_i-\overline{R})^2}$
where	n = 120 months R_i = return on investment in month *i* $\overline{R}$ = average monthly return on investment

(2) For the purposes of subsection (1), a mutual fund must make the calculation with respect to the series or class of securities of the mutual fund that first became available to the public and calculate the "return on investment" for each month using:

(a) the net asset value of the mutual fund, assuming the reinvestment of all income and capital gain distributions in additional securities of the mutual fund;

(b) the same currency in which the series or class is offered.

Commentary:

For the purposes of Item 2, except for seed capital, the date on which the series or class of securities "first became available to the public" corresponds or approximately corresponds to the date on which the securities of the series or class were first issued to investors.

Item 3 Difference in classes or series of securities of a mutual fund

Despite Item 2(2), if a series or class of securities of the mutual fund has an attribute that results in a different investment risk level for the series or class than the investment risk level of the mutual fund, the "return on investment" for that series or class of securities must be used to calculate the standard deviation of that particular series or class of securities.

Commentary:

Generally, all series or classes of securities of a mutual fund will have the same investment risk level as determined by Items 1 and 2. However, a particular series or class of securities of a mutual fund may have a different investment risk level than the other series or classes of securities of the same mutual fund if that series or class of securities has an attribute that differs from the other. For example, a series or class of securities that employs currency hedging or that is offered in the currency of the United States of America (if the mutual fund is otherwise offered in the currency of Canada) has an attribute that could result in a different investment risk level than that of the mutual fund.

Item 4 Mutual funds with less than 10 years of history

(1) For the purposes of Item 2, if it has been less than 10 years since securities of the mutual fund were first available to the public, and if the mutual fund is a clone fund and the underlying fund has 10 years of performance history, or if there is another mutual fund with 10 years of performance history which is subject to this Instrument, and has the same fund manager, portfolio manager, investment objectives and investment strategies as the mutual fund, then in either case the mutual fund must calculate the standard deviation of the mutual fund in accordance with Item 2 by

(a) using the available return history of the mutual fund, and

(b) imputing the return history of the underlying fund or the other mutual fund, respectively, for the remainder of the 10 year period.

(2) For the purposes of Item 2, if it has been less than 10 years since securities of the mutual fund were first available to the public, and paragraph (1) above does not apply, then the mutual fund must select a reference index in accordance with Item 5, and calculate the standard deviation of the mutual fund in accordance with Item 2 by

(a) using the return history of the mutual fund, and

(b) imputing the return history of the reference index for the remainder of the 10 year period.

Commentary:

Generally, if a mutual fund that is structured as a mutual fund trust does not have 10 years of performance history, the past performance of a corporate class version of that mutual fund should be used to fill in the missing past performance information required to calculate standard deviation. Likewise, if a mutual fund that is structured as a corporate class fund does not have 10 years of performance history, the past performance of a mutual fund trust version of that mutual fund should be used to fill in the missing past performance information required to calculate standard deviation.

Item 5 Reference Index

(1) For the purposes of Item 4(2), the mutual fund must select a reference index that reasonably approximates, or for a newly established mutual fund, is expected to reasonably approximate, the standard deviation of the mutual fund.

(2) When using a reference index, a mutual fund must

(a) monitor the reasonableness of the reference index on an annual basis or more frequently if necessary,

(b) disclose in the mutual fund's prospectus in Part B, Item 9.1 of Form 81-101F1 or Part B, Item 12.2 of Form 41-101F2, as applicable

(i) a brief description of the reference index, and

(ii) if the reference index has changed since the last disclosure under this section, details of when and why the change was made.

Instructions:

(1) A reference index must be made up of one permitted index or, where necessary, to more reasonably approximate the standard deviation of a mutual fund, a composite of several permitted indices.

(2) In selecting and monitoring the reasonableness of a reference index, a mutual fund must consider a number of factors, including whether the reference index

(a) contains a high proportion of the securities represented, or expected to be represented, in the mutual fund's portfolio,

(b) has returns, or is expected to have returns, highly correlated to the returns of the mutual fund,

(c) has risk and return characteristics that are, or expected to be, similar to the mutual fund,

(d) has its returns computed (total return, net of withholding taxes, etc.) on the same basis as the mutual fund's returns,

(e) is consistent with the investment objectives and investment strategies in which the mutual fund is investing,

(f) has investable constituents and has security allocations that represent investable position sizes, for the mutual fund, and

(g) is denominated in, or converted into, the same currency as the mutual fund's reported net asset value.

(3) In addition to the factors listed in (2), the mutual fund may consider other factors if relevant to the specific characteristics of the mutual fund.

Commentary:

A mutual fund must consider each of the factors in (2), and may consider other factors, as appropriate, in selecting and monitoring the reasonableness of a reference index. However, a reference index that reasonably approximates, or is expected to reasonably approximate, the standard deviation of a mutual fund may not necessarily meet all of the factors in (2).

Item 6 Fundamental Changes

(1) For the purposes of Item 2, if there has been a reorganization or transfer of assets of the mutual fund pursuant to paragraphs 5.1(1)(f) or (g) or subparagraph 5.1(1)(h)(i) of the Instrument, the standard deviation must be calculated using the monthly "return on investment" of the continuing mutual fund, as the case may be.

(2) Despite subsection (1), if there has been a change to the fundamental investment objectives of the mutual fund pursuant to paragraph 5.1(1)(c) of the Instrument, for the purposes of Item 2, the standard deviation must be calculated using the monthly "return on investment" of the mutual fund starting from the date of that change.***.***

4. Any exemption from or waiver of a provision of Form 81-101F3 Contents of Fund Facts Document in relation to the disclosure under the heading "How risky is it?" expires on September 1, 2017.

5. Subject to section 6, this Instrument comes into force on March 8, 2017.

6. The provision of this Instrument listed in column 1 of the following table come into force on the date set out in column 2 of the table:

Column 1: Provisions of this Instrument	Column 2: Date
Section 3	September 1st, 2017

5.1.3 Amendments to National Instrument 81-101 Mutual Fund Prospectus Disclosure

AMENDMENTS TO
NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE

1. National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Instrument.

2. Item 9.1 of Part B of Form 81-101F1 Contents of Simplified Prospectus is replaced with the following:

Item 9.1 Investment Risk Classification Methodology

For a mutual fund,

(a) state in words substantially similar to the following:

The investment risk level of this mutual fund is required to be determined in accordance with a standardized risk classification methodology that is based on the mutual fund's historical volatility as measured by the 10-year standard deviation of the returns of the mutual fund.

(b) if the mutual fund has less than 10 years of performance history and complies with Item 4 of Appendix F *Investment Risk Classification Methodology* to National Instrument 81-102 *Investment Funds*, provide a brief description of the other mutual fund or reference index, as applicable; if the other mutual fund or reference index has been changed since the most recently filed prospectus, provide details of when and why the change was made; and

(c) disclose that the standardized risk classification methodology used to identify the investment risk level of the mutual fund is available on request, at no cost, by calling [toll free/collect call telephone number] or by writing to [address].***.***

3. Item 4 of Part I of Form 81-101F3 Contents of Fund Facts Document is amended by

(a) replacing in paragraph (2)(a) "adopted by the manager of the mutual fund***" with "***prescribed by Appendix F *Investment Risk Classification Methodology* to National Instrument 81-102 *Investment Funds****",***

(b) deleting in paragraph 2(a) "mutual fund's***", and***

(c) replacing in the Instructions "adopted by the manager of the mutual fund***" with "***prescribed by Appendix F *Investment Risk Classification Methodology* to National Instrument 81-102 *Investment Funds*, as at the end of the period that ends within 60 days before the date of the fund facts document***".***

4. Subject to section 5, this Instrument comes into force on March 8, 2017.

5. The provision of this Instrument listed in column 1 of the following table comes into force on the date set in column 2 of the table:

Column 1: Provisions of this Instrument	**Column 2: Date**
Section 3	September 1, 2017

5.1.4 Amendments to National Instrument 41-101 General Prospectus Requirements

AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.

2. Section 1.1 is amended by adding the following definitions:

"ETF" or "exchange-traded mutual fund" means a mutual fund in continuous distribution, the securities of which are

(a) listed on an exchange, and

(b) trading on an exchange or an alternative trading system;

"ETF facts document" means a completed Form 41-101F4;

"Form 41-101F4" means Form 41-101F4 *Information Required in an ETF Facts Document* of this Instrument;***.***

3. Subsection 1.2(6) is amended by replacing "and Form 41-101F3***" with "***, Form 41-101F3 and Form 41-101F4***".***

4. Subsection 2.1(1) is replaced with the following:

(1) Subject to subsection (2), this Instrument applies to a prospectus filed under securities legislation, a distribution of securities subject to the prospectus requirement and a purchase of securities of an ETF.***.***

5. The following Parts are added:

(a) **PART 3B: ETF Facts Document Requirements**

3B.1 Application

This Part applies only to an ETF.

3B.2 Plain language and presentation

(1) An ETF facts document must be prepared using plain language and be in a format that assists in readability and comprehension.

(2) An ETF facts document must

(a) be prepared for each class and each series of securities of an ETF in accordance with Form 41-101F4,

(b) present the items listed in the Part I section of Form 41-101F4 and the items listed in the Part II section of Form 41-101F4 in the order stipulated in those parts,

(c) use the headings and sub-headings stipulated in Form 41-101F4,

(d) contain only the information that is specifically required or permitted to be in Form 41-101F4,

(e) not incorporate any information by reference, and

(f) not exceed four pages in length.

3B.3 Preparation in the required form

Despite provisions in securities legislation relating to the presentation of the content of a prospectus, an ETF facts document for an ETF must be prepared in accordance with this Instrument.

3B.4 Websites

(1) If an ETF or the ETF's family has a website, the ETF must post to at least one of those websites an ETF facts document filed under this Part as soon as practicable and, in any event, within 10 days after the date that the document is filed.

(2) An ETF facts document posted to the website referred to in subsection (1) must

(a) be displayed in a manner that would be considered prominent to a reasonable person; and

(b) not be combined with another ETF facts document.

(3) Subsection (1) does not apply if the ETF facts document is posted to a website of the manager of the ETF in the manner required under subsection (2).;

(b) **PART 3C: Delivery of ETF Facts Documents for Investment Funds**

3C.1 Application

This Part applies only to an ETF.

3C.2 Obligation to deliver ETF facts documents

(1) The obligation to deliver or send a prospectus under securities legislation does not apply in respect of an ETF.

(2) A dealer acting as agent for a purchaser who receives an order for the purchase of a security of an ETF must, unless the dealer has previously done so, deliver or send to the purchaser the most recently filed ETF facts document for the applicable class or series of securities of the ETF not later than midnight on the second business day after entering into the purchase of the security.

(3) In Nova Scotia, an ETF facts document is a prescribed disclosure document for the purposes of subsection 76(1A) of the *Securities Act* (Nova Scotia).

(4) In Nova Scotia, a security of an ETF is a prescribed investment fund security for the purposes of subsections 76(1B) and (1C) of the *Securities Act* (Nova Scotia).

(5) In Ontario, an ETF facts document is a disclosure document prescribed under subsection 71(1.1) of the *Securities Act* (Ontario).

(6) In Ontario, a security of an ETF is an investment fund security prescribed for the purposes of subsections 71(1.2) and (1.3) of the *Securities Act* (Ontario).

3C.3 Combinations of ETF facts documents for delivery purposes

(1) An ETF facts document delivered or sent under section 3C.2 must not be combined with any other materials or documents including, for greater certainty, another ETF facts document, except one or more of the following:

(a) a general front cover pertaining to the package of combined materials and documents;

(b) a trade confirmation which discloses the purchase of securities of the ETF;

(c) an ETF facts document of another ETF if that ETF facts document is also being delivered or sent under section 3C.2;

(d) the prospectus of the ETF;

(e) any material or document incorporated by reference into the prospectus;

(f) an account application document;

(g) a registered tax plan application or related document.

(2) If a trade confirmation referred to in subsection (1)(b) is combined with an ETF facts document, any other disclosure documents required to be delivered or sent to satisfy a regulatory requirement for purchases listed in the trade confirmation may be combined with the ETF facts document.

(3) If an ETF facts document is combined with any of the materials or documents referred to in subsection (1), a table of contents specifying all documents must be combined with the ETF facts document, unless the only other documents combined with the ETF facts document are the general front cover permitted under paragraph (1)(a) or the trade confirmation permitted under paragraph (1)(b).

(4) If one or more ETF facts documents are combined with any of the materials or documents referred to in subsection (1), only the general front cover permitted under paragraph (1)(a), the table of contents required under subsection (3) and the trade confirmation permitted under paragraph (1)(b) may be placed in front of those ETF facts documents.

3C.4 Combinations of ETF facts documents for filing purposes

For the purposes of sections 6.2, 9.1 and 9.2, an ETF facts document may be combined with another ETF facts document in a prospectus.

3C.5 Time of receipt

(1) For the purpose of this Part, where the latest ETF facts document referred to in subsection 3C.2(2) is sent by prepaid mail, it shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

(2) Subsection (1) does not apply in Ontario.

(3) Subsection (1) does not apply in Québec.

[*Note: In Ontario, the same time of receipt is reflected in an amendment to s. 71(4) of the Securities Act (Ontario).*]

3C.6 Dealer as agent

(1) For the purpose of this Part, a dealer acts as agent of the purchaser if the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

(2) Subsection (1) does not apply in Ontario.

(3) Subsection (1) does not apply in Québec.

[*Note: In Ontario, the same agency rule is reflected in an amendment to s. 71(7) of the Securities Act (Ontario).*]

3C.7 Purchaser's right of action for failure to deliver or send

(1) A purchaser has a right of action if an ETF facts document is not delivered or sent as required by subsection 3C.2(2), as the purchaser would otherwise have when a prospectus is not delivered or sent as required under securities legislation and, for that purpose, an ETF facts document is a prescribed document under the statutory right of action.

(2) In Alberta, instead of subsection (1), section 206 of the *Securities Act* (Alberta) applies.

(3) In Manitoba, instead of subsection (1), section 141.2 of the *Securities Act* (Manitoba) applies and the ETF facts document is a prescribed document for the purposes of section 141.2.

(4) In Nova Scotia, instead of subsection (1), section 141 of the *Securities Act* (Nova Scotia) applies..

(5) In Ontario, instead of subsection (1), section 133 of the *Securities Act* (Ontario) applies.

(6) In Québec, instead of subsection (1), section 214.1 of the *Securities Act* (Québec) applies..

6. Section 6.1 is amended by adding the following subsection:

(4) An amendment to an ETF facts document must be prepared in accordance with Form 41-101F4 without any further identification, and dated as of the date the ETF facts document is being amended.**.**

7. Section 6.2 is amended by deleting "*and*" at the end of paragraph (c), by replacing "." at the end of paragraph (d) with "*, and*" and by adding the following paragraph:

(e) in the case of an ETF, if the amendment relates to information in the ETF facts document,

(i) file an amendment to the ETF facts document, and

(ii) deliver to the regulator a copy of the ETF facts document, blacklined to show changes, including text deletions, from the latest ETF facts document previously filed.***.***

8. The Instrument is amended by adding the following section:

6.2.1 Required documents for filing an amendment to an ETF facts document – An ETF that files an amendment to an ETF facts document must, unless section 6.2 applies,

(a) file an amendment to the corresponding prospectus, certified in accordance with Part 5,

(b) deliver to the regulator a copy of the ETF facts document, blacklined to show changes, including text deletions, from the latest ETF facts document previously filed, and

(c) file or deliver any other supporting documents required under this Instrument or other securities legislation, unless the documents originally filed or delivered are correct as of the date the amendment is filed.***.***

9. Section 9.1 is amended

(a) in paragraph (1)(a) by adding the following subparagraph:

(iv.2) if the issuer is an ETF, in addition to the documents filed under subparagraph (iv), an ETF facts document for each class or series of securities of the ETF;; and

(b) by replacing subparagraph (1)(b)(i) with the following:

(i) Blackline Copy of the Prospectus – in the case of a pro forma prospectus, a copy of the pro forma prospectus blacklined to show changes and the text of deletions from the latest prospectus filed;

(i.1) Blackline Copy of the ETF Facts Document – in the case of a pro forma prospectus for an ETF, a copy of the pro forma ETF facts document for each class or series of securities of the ETF blacklined to show changes and the text of deletions from the latest ETF facts document previously filed;***.***

10. Section 9.2 is amended

(a) in subparagraph (a)(ii) by replacing "9.1(a)(ii)***" with "***9.1(1)(a)(ii)***",***

(b) in subparagraph (a)(iii) by replacing "9.1(a)(iii)***" with "***9.1(1)(a)(iii)***",***

(c) by replacing subparagraph (a)(iv) with the following:

(iv) Investment Fund Documents – a copy of any document described under subparagraph 9.1(1)(a)(iv), (iv.1) or (iv.2) that has not previously been filed;***,***

(d) in clause (a)(v)(B) by replacing "9.1(a)(v) or 9.1(a)(vi)***" with "***9.1(1)(a)(v) or (vi)***", and***

(e) by replacing subparagraph (b)(i) with the following:

(i) **Blackline Copy of the Prospectus** – a copy of the final long form prospectus blacklined to show changes from the preliminary or pro forma long form prospectus;

(i.1) **Blackline Copy of the ETF Facts Document** – in the case of a final long form prospectus for an ETF, a copy of the ETF facts document for each class or series of securities of the ETF blacklined to show changes and the text of deletions from the preliminary or pro forma ETF facts document;***.***

11. The Instrument is amended by adding the following section to Part 15:

15.3 Documents to be delivered or sent upon request

(1) An ETF must deliver or send to any person or company that requests the prospectus of the ETF or any of the documents incorporated by reference into the prospectus, a copy of the prospectus or requested document.

(2) A document requested under subsection (1) must be delivered or sent within three business days of receipt of the request and free of charge.***.***

12. Form 41-101F2 Information Required in an Investment Fund Prospectus is amended

(a) by replacing item 1.15 under "*Documents Incorporated by Reference*" with the following:

For an investment fund in continuous distribution, state in substantially the following words:

"Additional information about the fund is available in the following documents:

- the most recently filed ETF Facts for each class or series of securities of the ETF; [insert if applicable]
- the most recently filed annual financial statements;
- any interim financial reports filed after those annual financial statements;
- the most recently filed annual management report of fund performance;
- any interim management report of fund performance filed after that annual management report of fund performance.

These documents are incorporated by reference into this prospectus which means that they legally form part of this prospectus. Please see the "Documents Incorporated by Reference" section for further details.";

(b) by replacing "*Under*" in item 3.6(4) with "*For investment funds other than mutual funds, under*";

(c) by replacing "*Under*" in item 11.1 with "*For investment funds other than mutual funds, under*";

(d) by adding the following item:

12.2 Investment Risk Classification Methodology

For an ETF,

(a) state in words substantially similar to the following:

> "The investment risk level of this ETF is required to be determined in accordance with a standardized risk classification methodology that is based on the ETF's historical volatility as measured by the 10-year standard deviation of the returns of the ETF.";

(b) if the ETF has less than 10 years of performance history and complies with Item 4 of Appendix F - *Investment Risk Classification Methodology to National Instrument 81-102 Investment Funds*, provide a brief description of the other fund or reference index, as applicable; if the other fund or reference index has been changed since the most recently filed prospectus, provide details of when and why the change was made; and

(c) disclose that the standardized risk classification methodology used to identify the investment risk level of the ETF is available on request, at no cost, by calling [toll free/collect call telephone number] or by writing to [address].***;***

(e) ***by replacing the first paragraph in item 36.2 under "*****Mutual Funds*****" with the following:***

For an investment fund that is a mutual fund, other than an ETF, under the heading "Purchasers' Statutory Rights of Withdrawal and Rescission", state in words substantially similar to the following:***;***

(f) by adding the following item:

36.2.1 Exchange-traded Mutual Funds

For an investment fund that is an ETF, under the heading "Purchasers' Statutory Rights of Rescission", state in words substantially similar to the following:

> "Securities legislation in [certain of the provinces [and territories] of Canada/the Province of [insert name of local jurisdiction, if applicable]] provides purchasers with the right to withdraw from an agreement to purchase ETF securities within 48 hours after the receipt of a confirmation of a purchase of such securities. [In several of the provinces/provinces and territories], [T/t]he securities legislation further provides a purchaser with remedies for rescission [or [, in some jurisdictions,] revisions of the price or damages] if the prospectus and any amendment contains a misrepresentation, or non-delivery of the ETF Facts, provided that the remedies for rescission [, revisions of the price or damages] are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province [or territory].

The purchaser should refer to the applicable provisions of the securities legislation of the province [or territory] for the particulars of these rights or should consult with a legal adviser."***; and***

(g) ***by replacing item 37.1 under "*****Mandatory Incorporation by Reference*****" with the following:***

37.1 Mandatory Incorporation by Reference

If the investment fund is in continuous distribution, incorporate by reference the following documents in the prospectus, by means of the following statement in substantially the following words under the heading "Documents Incorporated by Reference":

> "Additional information about the fund is available in the following documents:
>
> 1. The most recently filed ETF Facts for each class or series of securities of the ETF, filed either concurrently with or after the date of the prospectus. [insert if applicable]
>
> 2. The most recently filed comparative annual financial statements of the investment fund, together with the accompanying report of the auditor.
>
> 3. Any interim financial reports of the investment fund filed after those annual financial statements.
>
> 4. The most recently filed annual management report of fund performance of the investment fund.
>
> 5. Any interim management report of fund performance of the investment fund filed after that annual management report of fund performance.
>
> These documents are incorporated by reference into the prospectus, which means that they legally form part of this document just as if they were printed as part of this document. You can get a copy of these documents, at your request, and at no cost, by calling [toll-free/collect] [insert the toll-free telephone number or telephone number where collect calls are accepted] or from your dealer.
>
> [If applicable] These documents are available on the [investment fund's/investment fund family's] Internet site at [insert investment fund's Internet site address], or by contacting the [investment fund/investment fund family] at [insert investment fund's /investment fund family's email address].
>
> These documents and other information about the fund are available on the Internet at www.sedar.com."***.***

13. The following Form is added:

Form 41-101F4 – Information Required in an ETF Facts Document

General Instructions:

General

(1) This Form describes the disclosure required in an ETF facts document for an ETF. Each Item of this Form outlines disclosure requirements. Instructions to help you provide this disclosure are in italic type.

(2) Terms defined in National Instrument 41-101 General Prospectus Requirements, National Instrument 81-102 Investment Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Form have the meanings that they have in those national instruments.

(3) An ETF facts document must state the required information concisely and in plain language.

(4) Respond as simply and directly as is reasonably possible. Include only the information necessary for a reasonable investor to understand the fundamental and particular characteristics of the ETF.

(5) National Instrument 41-101 General Prospectus Requirements requires the ETF facts document to be presented in a format that assists in readability and comprehension. This Form does not mandate the use of a specific format or template to achieve these goals. However, ETFs must use, as appropriate, tables, captions, bullet points or other organizational techniques that assist in presenting the required disclosure clearly and concisely.

(6) This Form does not mandate the use of a specific font size or style but the text must be of a size and style that is legible. Where the ETF facts document is made available online, information must be presented in a way that enables it to be printed in a readable format.

(7) An ETF facts document can be produced in colour or in black and white, and in portrait or landscape orientation.

(8) Except as permitted by subsection (9), an ETF facts document must contain only the information that is specifically mandated or permitted by this Form. In addition, each Item must be presented in the order and under the heading or sub-heading stipulated in this Form.

(9) An ETF facts document may contain a brief explanation of a material change or a proposed fundamental change. The disclosure may be included in a textbox before Item 2 of Part I or in the most relevant section of the ETF facts document. If necessary, the ETF may provide a cross-reference to a more detailed explanation at the end of the ETF facts document.

(10) An ETF facts document must not contain design elements (e.g., graphics, photos, artwork) that detract from the information disclosed in the document.

Contents of an ETF Facts Document

(11) An ETF facts document must disclose information about only one class or series of securities of an ETF. ETFs that have more than one class or series of securities that are referable to the same portfolio of assets must prepare a separate ETF facts document for each class or series.

(12) The ETF facts document must be prepared on letter-size paper and must consist of two Parts: Part I and Part II.

(13) The ETF facts document must begin with the responses to the Items in Part I of this Form.

(14) Part I must be followed by the responses to the Items in Part II of this Form.

(15) Each of Part I and Part II must not exceed one page in length, unless the required information in any section causes the disclosure to exceed this limit. Where this is the case, an ETF facts document must not exceed a total of four pages in length.

(16) For a class or series of securities of the ETF denominated in a currency other than the Canadian dollar, specify the other currency under the heading "Trading Information (12 months ending [date])" and provide the dollar amounts in the other currency, where applicable, under the headings "How has the ETF performed?" and "How much does it cost?".

(17) For items that must be as at a date within 60 days before the date of the ETF facts document or over a period ending within 60 days before the date of the ETF facts document, the same date within 60 days before the date of the ETF facts document must be used and disclosed in the ETF facts document.

(18) An ETF must not attach or bind other documents to an ETF facts document, except those documents permitted under Part 3C of National Instrument 41-101 General Prospectus Requirements.

Consolidation of ETF Facts Document into a Multiple ETF Facts Document

(19) ETF facts documents must not be consolidated with each other to form a multiple ETF facts document, except as permitted by Part 3C of National Instrument 41-101 General Prospectus Requirements. When a multiple ETF facts document is permitted under the Instrument, an ETF must provide information about each of the ETFs described in the document on a fund-by-fund or catalogue basis and must set out for each ETF separately the information required by this Form. Each ETF facts document must start on a new page and may not share a page with another ETF facts document.

Multi-Class ETFs

(20) As provided in National Instrument 81-102 Investment Funds, each section, part, class or series of a class of securities of an investment fund that is referable to a separate portfolio of assets is considered to be a separate investment fund. Those principles are applicable to this Form.

Part I – Information about the ETF

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title "ETF Facts";

(b) the name of the manager of the ETF;

(c) the name of the ETF to which the ETF facts document pertains;

(d) if the ETF has more than one class or series of securities, the name of the class or series described in the ETF facts document;

(e) the ticker symbol(s) for the class or series of securities of the ETF ;

(f) the date of the document;

(g) if the final prospectus of the ETF includes textbox disclosure on the cover page, substantially similar textbox disclosure on the ETF facts document;

(h) a brief introduction to the document using wording substantially similar to the following:

> This document contains key information you should know about [insert name of the ETF]. You can find more details about this exchange-traded fund (ETF) in its prospectus. Ask your representative for a copy, contact [insert name of the manager of the ETF] at [insert if applicable the toll-free number and email address of the manager of the ETF] or visit [insert the website of the ETF, the ETF's family or the manager of the ETF] [as applicable]; and

(i) state in bold type using wording substantially similar to the following:

> Before you invest, consider how the ETF would work with your other investments and your tolerance for risk.

INSTRUCTIONS:

(1) The date for an ETF facts document that is filed with a preliminary prospectus or final prospectus must be the date of the preliminary prospectus or final prospectus, respectively. The date for an ETF facts document that is filed with a pro forma prospectus must be the date of the anticipated final prospectus. The date for an amended ETF facts document must be the date on which it is filed.

(2) If the investment objectives of the ETF are to track a multiple (positive or negative) of the daily performance of a specified underlying index or benchmark, provide textbox disclosure in bold type using wording substantially similar to the following:

> *This ETF is highly speculative. It uses leverage, which magnifies gains and losses. It is intended for use in daily or short-term trading strategies by sophisticated investors. If you hold this ETF for more than one day, your return could vary considerably from the ETF's daily target return. Any losses may be compounded. Don't buy this ETF if you are looking for a longer-term investment.*

(3) If the investment objectives of the ETF are to track the inverse performance of a specified underlying index or benchmark, provide textbox disclosure in bold type using wording substantially similar to the following:

> *This ETF is highly speculative. It is intended for use in daily or short-term trading strategies by sophisticated investors. If you hold this ETF for more than one day, your return could vary considerably from the ETF's daily target return. Any losses may be compounded. Don't buy this ETF if you are looking for a longer-term investment.*

(4) If the ETF is a commodity pool, and Instruction (2) or (3) does not apply, provide textbox disclosure in bold type using wording substantially similar to the following:

> *This ETF is a commodity pool and is highly speculative and involves a high degree of risk. You should carefully consider whether your financial condition permits you to participate in this investment. You may lose a substantial portion or even all of the money you place in the commodity pool.*

Item 2 – Quick Facts, Trading Information and Pricing Information

(1) Under the heading "Quick Facts", include disclosure in the form of the following table:

Date ETF started (see instruction 1)
Total value on [date] (see instruction 2)
Management expense ratio (MER) (see instruction 3)
Fund manager (see instruction 4)
Portfolio manager (see instruction 5)
Distributions (see instruction 6)

(2) Under the heading "Trading Information (12 months ending [date])", include disclosure in the form of the following table:

Ticker symbol (see instruction 7)
Exchange (see instruction 8)
Currency (see instruction 9)
Average daily volume (see instruction 10)
Number of days traded (see instruction 11)

(3) Under the heading "Pricing Information (12 months ending [date])", include disclosure in the form of the following table:

Market price (see instruction 12)
Net asset value (NAV) (see instruction 13)
Average bid-ask spread (see instruction 14)

(4) An ETF may include the website address where updated Quick Facts, Trading Information and Pricing Information are posted by stating:

> For more updated Quick Facts, Trading Information and Pricing Information, visit [insert the website of the ETF, the ETF's family or the manager of the ETF] [as applicable].

(5) An ETF may include the Committee on Uniform Securities Identification Procedures (CUSIP) number for the class or series of securities of the ETF at the bottom of the first page by stating:

> For dealer use only: CUSIP [insert CUSIP number]

INSTRUCTIONS:

(1) Use the date that the securities of the class or series of the ETF described in the ETF facts document first became available to the public.

(2) Specify the net asset value (NAV) of the ETF as at a date within 60 days before the date of the ETF facts document. The amount disclosed must take into consideration all classes or series that are referable to the same portfolio of assets. For a newly established ETF, state that this information is not available because it is a new ETF.

(3) Use the management expense ratio (MER) disclosed in the most recently filed management report of fund performance for the ETF. The MER must be net of fee waivers or absorptions and, despite subsection 15.1(2) of National Instrument 81-106 Investment Fund Continuous Disclosure, need not include any additional disclosure about the waivers or absorptions. For a newly established ETF that has not yet filed a management report of fund performance, state that the MER is not available because it is a new ETF.

(4) Specify the name of the fund manager of the ETF.

(5) Specify the name of the portfolio manager of the ETF. The ETF may also name the specific individual(s) responsible for portfolio selection and if applicable, the name of the sub-advisor(s).

(6) Include disclosure under this element of the "Quick Facts" only if distributions are a fundamental feature of the ETF. Disclose the expected frequency and timing of distributions. If there is a targeted amount for distributions, the ETF may include this information.

(7) Specify the ticker symbol(s) for the class or series of securities of the ETF.

(8) Specify the exchange(s) on which the class or series of securities of the ETF are listed.

(9) Specify the currency that the class or series of securities of the ETF is denominated.

(10) Disclose the consolidated (all trading venues) average daily trading volume of the class or series of securities of the ETF over a 12 month period ending within 60 days before the date of the ETF facts document. Include non-trading (zero volume) days in the average daily trading volume calculation. For a newly established ETF, state that this information is not available because it is a new ETF. For an ETF that has not yet completed 12 consecutive months, state that this information is not available because the ETF has not yet completed 12 consecutive months.

(11) Disclose the number of days the class or series of securities of the ETF has traded out of the total number of available trading days over a 12 month period ending within 60 days before the date of the ETF facts document. For a newly established ETF, state that this information is not available because it is a new ETF. For an ETF that has not yet completed 12 consecutive months, state that this information is not available because the ETF has not yet completed 12 consecutive months.

(12) Disclose the range for the market price of the class or series of securities of the ETF by specifying the highest and lowest prices at which the class or series of securities of the ETF have traded on all trading venues over a 12 month period ending within 60 days before the date of the ETF facts document. The dollar amounts shown under this Item may be rounded to two decimal places. For a newly established ETF, state that this information is not available because it is a new ETF. For an ETF that has not yet completed 12 consecutive months, state that this information is not available because the ETF has not yet completed 12 consecutive months.

(13) Disclose the range for the net asset value per share or unit of the class or series of securities of the ETF by specifying the highest and lowest net asset value per share or unit of the class or series of securities of the ETF over a 12 month period ending within 60 days of the date of the ETF facts document. The dollar amounts shown under this Item may be rounded to two decimal places. For a newly established ETF, state that this information is not available because it is a new ETF. For an ETF that has not yet completed 12 consecutive months, state that this information is not available because the ETF has not yet completed 12 consecutive months.

(14) Disclose the average bid-ask spread (the Average Bid-Ask Spread) for the class or series of the ETF being described in the ETF facts document. The disclosure must comply with the following:

- *The Average Bid-Ask Spread must be calculated by taking the average of the daily average bid-ask spread (the Daily Bid-Ask Spread) using the bid and ask orders displayed on the primary Canadian listing exchange (the Listing Exchange) for the class or series of the ETF for each day the Listing Exchange was open for trading (each, a Trading Day) over the 12-month period ending within 60 days before the date of the ETF facts document (the Time Period).*

- *Each Daily Bid-Ask Spread must be calculated by taking the average of the intraday bid-ask spreads (each, an Intraday Bid-Ask Spread) for each Trading Day.*

- *An Intraday Bid-Ask Spread must be calculated at each one second interval beginning 15 minutes after the opening and ending 15 minutes prior to the closing of the Listing Exchange (the Interval Points).*

- *The bid price at each Interval Point (the Interval Bid Price) must be determined by multiplying each bid price by its displayed order amount in number of shares until the sum of $50,000 (Bid Market Depth) is reached then dividing by the total number of securities bid.*

- *The ask price at each Interval Point (the Interval Ask Price) must be determined by multiplying each ask price by its displayed order amount in number of securities until the sum of $50,000 (Ask Market Depth) is reached then dividing by the total number of securities offered.*

- *The bid-ask spread at each Interval Point (the Interval Bid-Ask Spread) is determined by calculating the difference between the Interval Bid Price and the Interval Ask Price and dividing by the midpoint of the Interval Bid Price and Interval Ask Price.*

- *If the Listing Exchange for the ETF does not have sufficient Bid Market Depth, bid orders from other Canadian marketplaces must be used to the extent necessary to arrive at the Bid Market Depth.*

- *If the Listing Exchange for the ETF does not have sufficient Ask Market Depth, ask orders from other Canadian marketplaces must be used to the extent necessary to arrive at the Ask Market Depth.*

- *If the Listing Exchange has sufficient Bid Market Depth or Ask Market Depth the ETF may, at its discretion, also include bid and ask orders from other Canadian marketplaces in its calculation of the Interval Bid-Ask Spread.*

If there is insufficient Bid Market Depth or Ask Market Depth at a particular Interval Point even after including data from all Canadian marketplaces, no Interval Bid-Ask Spread can be calculated for that Interval Point. In order to include the Daily Average Bid-Ask Spread for a particular Trading Day in the 12-month Average Bid-Ask Spread calculation, the ETF must be able to calculate an Interval Bid-Ask Spread for at least 75% of the Interval Points in that Trading Day. In order to calculate the 12-month Average Bid-Ask Spread, the ETF must be able to calculate a Daily Bid-Ask Spread for at least 75% of the Trading Days over the Time Period. For a newly established ETF, state that the Average Bid-Ask Spread is not available because it is a new ETF. For an ETF that has not yet completed 12 consecutive months, state that the Average Bid-Ask Spread is not available because the ETF has not yet completed 12 consecutive months. For an ETF that has completed 12 consecutive months but does not have sufficient data to calculate the Average Bid-Ask Spread, state the following: "This ETF did not have sufficient market depth ($50,000) to calculate the average bid-ask spread."

Item 3 – Investments of the ETF

(1) Briefly set out under the heading "What does the ETF invest in?" a description of the fundamental nature of the ETF, or the fundamental features of the ETF that distinguish it from other ETFs.

(2) For an ETF that replicates an index,

(a) disclose the name or names of the permitted index or permitted indices on which the investments of the index ETF are based, and

(b) briefly describe the nature of that permitted index or those permitted indices.

(3) For an ETF that uses derivatives to replicate an index, state using wording substantially similar to the following:

> The ETF uses derivatives, such as options, futures and swaps, to get exposure to the [index/benchmark] without investing directly in the securities that make up the [index/benchmark].

(4) Include an introduction to the information provided in response to subsection (5) and subsection (6) using wording similar to the following:

> The charts below give you a snapshot of the ETF's investments on [insert date]. The ETF's investments will change.

(5) Unless the ETF is a newly established ETF, include under the sub-heading "Top 10 investments [date]", a table disclosing the following:

(a) the top 10 positions held by the ETF, each expressed as a percentage of the net asset value of the ETF;

(b) the percentage of net asset value of the ETF represented by the top 10 positions;

(c) the total number of positions held by the ETF.

(6) Unless the ETF is a newly established ETF, under the sub-heading "Investment mix [date]" include at least one, and up to two, charts or tables that illustrate the investment mix of the ETF's investment portfolio.

(7) For a newly established ETF, state the following under the sub-headings "Top 10 investments [date]" and "Investment mix [date]":

This information is not available because this ETF is new.

INSTRUCTIONS:

(1) Include in the information under "What does this ETF invest in?" a description of what the ETF primarily invests in, or intends to primarily invest in, or that its name implies that it will primarily invest in, such as

(a) particular types of issuers, such as foreign issuers, small capitalization issuers or issuers located in emerging market countries;

(b) particular geographic locations or industry segments; or

(c) portfolio assets other than securities.

(2) Include a particular investment strategy only if it is an essential aspect of the ETF, as evidenced by the name of the ETF or the manner in which the ETF is marketed.

(3) If an ETF's stated objective is to invest primarily in Canadian securities, specify the maximum exposure to investments in foreign markets.

(4) The information under "Top 10 investments" and "Investment mix" is intended to give a snapshot of the composition of the ETF's investment portfolio. The information required to be disclosed under these sub-headings must be as at a date within 60 days before the date of the ETF facts document. The date shown must be the same as the one used in Item 2 for the total value of the ETF.

(5) If the ETF owns more than one class of securities of an issuer, those classes should be aggregated for the purposes of this Item, however, debt and equity securities of an issuer must not be aggregated.

(6) Portfolio assets other than securities should be aggregated if they have substantially similar investment risks and profiles. For instance, gold certificates should be aggregated, even if they are issued by different financial institutions.

(7) Treat cash and cash equivalents as one separate discrete category.

(8) In determining its holdings for purposes of the disclosure required by this Item, an ETF must, for each long position in a derivative that is held by the ETF for purposes other than hedging and for each index participation unit held by the ETF, consider that it holds directly the underlying interest of that derivative or its proportionate share of the securities held by the issuer of the index participation unit.

(9) If an ETF invests substantially all of its assets directly or indirectly (through the use of derivatives) in securities of one other mutual fund, list the 10 largest holdings of the other mutual fund and show the percentage of the other mutual fund's net asset value represented by the top 10 positions. If the ETF is not able to disclose this information as at a date within 60 days before the date of the ETF facts document, the ETF must include this information as disclosed by the other mutual fund in the other mutual fund's most recently filed ETF facts document or fund facts document, or its most recently filed management report of fund performance, whichever is most recent.

(10) Indicate whether any of the ETF's top 10 positions are short positions.

(11) Each investment mix chart or table must show a breakdown of the ETF's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the ETF constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The ETF should use the most appropriate categories given the nature of the ETF. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the ETF's management report of fund performance.

(12) In presenting the investment mix of the ETF, consider the most effective way of conveying the information to investors. All tables or charts must be clear and legible.

(13) *For new ETFs where the information required to be disclosed under "Top 10 investments" and "Investment mix" is not available, include the required sub-headings and provide a brief statement explaining why the required information is not available.*

Item 4 – Risks

(1) Under the heading "How risky is it?", state the following:

The value of the ETF can go down as well as up. You could lose money.

One way to gauge risk is to look at how much an ETF's returns change over time. This is called "volatility".

In general, ETFs with higher volatility will have returns that change more over time. They typically have a greater chance of losing money and may have a greater chance of higher returns. ETFs with lower volatility tend to have returns that change less over time. They typically have lower returns and may have a lower chance of losing money.

(2) Under the sub-heading "Risk rating",

(a) using the investment risk classification methodology prescribed by Appendix F – Investment Risk Classification Methodology to National Instrument 81-102 Investment Funds, identify the ETF's investment risk level on the following risk scale:

Low	Low to medium	Medium	Medium to high	High

(b) unless the ETF is a newly established ETF, include an introduction to the risk scale which states the following:

[Insert name of the manager of the ETF] has rated the volatility of this ETF as [insert investment risk level identified in paragraph (a) in bold type].

This rating is based on how much the ETF's returns have changed from year to year. It doesn't tell you how volatile the ETF will be in the future. The rating can change over time. An ETF with a low risk rating can still lose money.

(c) for a newly established ETF, include an introduction to the risk scale which states the following:

[Insert name of the manager of the ETF] has rated the volatility of this ETF as [insert investment risk level identified in paragraph (a) in bold type].

Because this is a new ETF, the risk rating is only an estimate by [insert name of the manager of the ETF]. Generally, the rating is based on how much the ETF's returns have changed from year to year. It doesn't tell you how volatile the ETF will be in the future. The rating can change over time. An ETF with a low risk rating can still lose money.

(d) following the risk scale, state using wording substantially similar to the following:

For more information about the risk rating and specific risks that can affect the ETF's returns, see the [insert cross-reference to the appropriate section of the ETF's final prospectus] section of the ETF's prospectus.

(3) If the ETF does not have any guarantee or insurance, under the sub-heading "No guarantees", state using wording substantially similar to the following:

ETFs do not have any guarantees. You may not get back the amount of money you invest.

(4) If the ETF has an insurance or guarantee feature protecting all or some of the principal amount of an investment in the ETF, under the sub-heading "Guarantees":

(a) identify the person or company providing the guarantee or insurance; and

(b) provide a brief description of the material terms of the guarantee or insurance, including the maturity date of the guarantee or insurance.

INSTRUCTIONS:

Based upon the investment risk classification methodology prescribed by Appendix F – Investment Risk Classification Methodology to National Instrument 81-102 Investment Funds, as at the end of the period that ends within 60 days before the date of the ETF facts document, identify where the ETF fits on the continuum of investment risk levels by showing the full investment risk scale and highlighting the applicable category on the scale. Consideration should be given to ensure that the highlighted investment risk rating is easily identifiable.

Item 5 – Past Performance

(1) Unless the ETF is a newly established ETF, under the heading "How has the ETF performed?", include an introduction using wording substantially similar to the following:

> This section tells you how [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF have performed over the past [insert number of calendar years shown in the bar chart required under paragraph (3)(a)] years. Returns [add a footnote stating: Returns are calculated using the ETF's net asset value (NAV).] after expenses have been deducted. These expenses reduce the ETF's returns. (For an ETF that replicates an index, state: This means that the ETF's returns may not match the returns of the [index/benchmark].)

(2) For a newly established ETF, under the heading "How has the ETF performed?", include an introduction using the following wording:

> This section tells you how [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF have performed, with returns calculated using the ETF's net asset value (NAV). However, this information is not available because the ETF is new.

(3) Under the sub-heading "Year-by-year returns",

(a) for an ETF that has completed at least one calendar year:

(i) provide a bar chart that shows the annual total return of the ETF, in chronological order with the most recent year on the right of the bar chart, for the lesser of

(A) each of the 10 most recently completed calendar years, and

(B) each of the completed calendar years in which the ETF has been in existence and for which the ETF was a reporting issuer; and

(ii) include an introduction to the bar chart using wording substantially similar to the following:

> This chart shows how [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF performed in each of the past [insert number of calendar years shown in the bar chart required under paragraph (a)]. The ETF dropped in value in [for the particular years shown in the bar chart required under paragraph (a), insert the number of years in which the value of the ETF dropped] of the [insert number of calendar years shown in the bar chart required in paragraph (a)(i)] years. The range of returns and change from year to year can help you assess how risky the ETF has been in the past. It does not tell you how the ETF will perform in the future.

(b) for an ETF that has not yet completed a calendar year, state the following:

> This section tells you how [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF have performed in past calendar years. However, this information is not available because the ETF has not yet completed a calendar year.

(c) for a newly established ETF, state the following:

This section tells you how [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF have performed in past calendar years. However, this information is not available because the ETF is new.

(4) Under the sub-heading “Best and worst 3-month returns”,

(a) for an ETF that has completed at least one calendar year:

(i) provide information for the period covered in the bar chart required under paragraph (3)(a) in the form of the following table:

	Return	**3 months ending**	**If you invested $1,000 at the beginning of the period**
Best return	(see instruction 7)	(see instruction 9)	Your investment would [rise/drop] to (see instruction 11).
Worst return	(see instruction 8)	(see instruction 10)	Your investment would [rise/drop] to (see instruction 12).

(ii) include an introduction to the table using wording substantially similar to the following:

This table shows the best and worst returns for the [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF in a 3-month period over the past [insert number of calendar years shown in the bar chart required under paragraph (3)(a)]. The best and worst 3-month returns could be higher or lower in the future. Consider how much of a loss you could afford to take in a short period of time.

(b) for an ETF that has not yet completed a calendar year, state the following:

This section shows the best and worst returns for the [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF in a 3-month period. However, this information is not available because the ETF has not yet completed a calendar year.

(c) for a newly established ETF, state the following:

This section shows the best and worst returns for the [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF in a 3-month period. However, this information is not available because the ETF is new.

(5) Under the sub-heading “Average return”,

(a) for an ETF that has completed at least 12 consecutive months, show the following:

(i) the final value of a hypothetical $1,000 investment in the ETF as at the end of the period that ends within 60 days before the date of the ETF facts document and consists of the lesser of

(A) 10 years, or

(B) the time since inception of the ETF; and

(ii) the annual compounded rate of return that equates the hypothetical $1,000 investment to the final value.

(b) for an ETF that has not yet completed 12 consecutive months, state the following:

> This section shows the value and annual compounded rate of return of a hypothetical $1,000 investment in [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF. However, this information is not available because the ETF has not yet completed 12 consecutive months.

(c) for a newly established ETF, state the following:

> This section shows the value and annual compounded rate of return of a hypothetical $1,000 investment in [name of class/series of securities described in the ETF facts document] [units/shares] of the ETF. However, this information is not available because the ETF is new.

INSTRUCTIONS:

(1) In responding to the requirements of this Item, an ETF must comply with the relevant sections of Part 15 of National Instrument 81-102 Investment Funds as if those sections applied to an ETF facts document.

(2) Use a linear scale for each axis of the bar chart required by this Item.

(3) The x-axis and y-axis for the bar chart required by this Item must intersect at zero.

(4) An ETF that distributes different classes or series of securities that are referable to the same portfolio of assets must show performance data related only to the specific class or series of securities being described in the ETF facts document.

(5) The dollar amounts shown under this Item may be rounded up to the nearest dollar.

(6) The percentage amounts shown under this Item may be rounded to one decimal place.

(7) Show the best rolling 3-month return as at the end of the period that ends within 60 days before the date of the ETF facts document.

(8) Show the worst rolling 3-month return as at the end of the period that ends within 60 days before the date of the ETF facts document.

(9) Insert the end date for the best 3-month return period.

(10) Insert the end date for the worst 3-month return period.

(11) Insert the final value that would equate with a hypothetical $1,000 investment for the best 3-month return period shown in the table.

(12) Insert the final value that would equate with a hypothetical $1,000 investment for the worst 3-month return period shown in the table.

Item 6 – Trading ETFs

Under the sub-heading “Trading ETFs”, state the following:

> ETFs hold a basket of investments, like mutual funds, but trade on exchanges like stocks. Here are a few things to keep in mind when trading ETFs:
>
> Pricing [*in bold type*]
>
> ETFs have two sets of prices: market price and net asset value (NAV).
>
> Market price
>
> ETFs are bought and sold on exchanges at the market price. The market price can change throughout the trading day. Factors like supply, demand, and changes in the value of an ETF’s investments can affect the market price.

You can get price quotes any time during the trading day. Quotes have two parts: bid and ask.

The bid is the highest price a buyer is willing to pay if you want to sell your ETF [units/shares]. The ask is the lowest price a seller is willing to accept if you want to buy ETF [units/shares]. The difference between the two is called the "bid-ask spread".

In general, a smaller bid-ask spread means the ETF is more liquid. That means you are more likely to get the price you expect.

Net asset value (NAV)

Like mutual funds, ETFs have a NAV. It is calculated after the close of each trading day and reflects the value of an ETF's investments at that point in time.

NAV is used to calculate financial information for reporting purposes – like the returns shown in this document.

Orders [*in bold type*]

There are two main options for placing trades: market orders and limit orders. A market order lets you buy or sell [units/shares] at the current market price. A limit order lets you set the price at which you are willing to buy or sell [units/shares].

Timing [*in bold type*]

In general, market prices of ETFs can be more volatile around the start and end of the trading day. Consider using a limit order or placing a trade at another time during the trading day.

Item 7 – Suitability

Provide a brief statement of the suitability of the ETF for particular investors under the heading "Who is this ETF for?". Describe the characteristics of the investor for whom the ETF may or may not be an appropriate investment, and the portfolios for which the ETF is and is not suited.

INSTRUCTIONS:

(1) If the ETF is particularly unsuitable for certain types of investors or for certain types of investment portfolios, emphasize this aspect of the ETF. Disclose both the types of investors who should not invest in the ETF, with regard to investments on both a short- and long-term basis, and the types of portfolios that should not invest in the ETF. If the ETF is particularly suitable for investors who have particular investment objectives, this can also be disclosed.

(2) If there is textbox disclosure on the cover page pursuant to Item 1(g) of Part I of this form, the brief statement of the suitability of the ETF in Item 8 of Part I of this form must be consistent with any suitability disclosure in the textbox.

Item 8 – Impact of Income Taxes on Investor Returns

Under the heading "A word about tax", provide a brief explanation of the income tax consequences for investors using wording similar to the following:

In general, you'll have to pay income tax on any money you make on an ETF. How much you pay depends on the tax laws where you live and whether or not you hold the ETF in a registered plan such as a Registered Retirement Savings Plan, or a Tax-Free Savings Account.

Keep in mind that if you hold your ETF in a non-registered account, distributions from the ETF are included in your taxable income, whether you get them in cash or have them reinvested.

Part II – Costs, Rights and Other Information

Item 1 – Costs of Buying, Owning and Selling the ETF

1.1 – Introduction

Under the heading "How much does it cost?", state the following:

> This section shows the fees and expenses you could pay to buy, own and sell [name of the class/series of securities described in the ETF facts document] [units/shares] of the ETF. Fees and expenses – including trailing commissions – can vary among ETFs. Higher commissions can influence representatives to recommend one investment over another. Ask about other ETFs and investments that may be suitable for you at a lower cost.

1.2 – Brokerage commissions

Under the sub-heading "Brokerage commissions", provide a brief statement using wording substantially similar to the following:

> You may have to pay a commission every time you buy and sell [units/shares] of the ETF. Commissions may vary by brokerage firm. Some brokerage firms may offer commission-free ETFs or require a minimum purchase amount.

1.3 – ETF expenses

(1) Under the sub-heading "ETF expenses", include an introduction using wording similar to the following:

> You don't pay these expenses directly. They affect you because they reduce the ETF's returns.

(2) Unless the ETF has not yet filed a management report of fund performance, provide information about the expenses of the ETF in the form of the following table:

	Annual rate (as a % of the ETF's value)
Management expense ratio (MER) This is the total of the ETF's management fee and operating expenses. (If the ETF pays a trailing commission, state the following: "This is the total of the ETF's management fee (which includes the trailing commission) and operating expenses.") (see instruction 1)	(see instruction 2)
Trading expense ratio (TER) These are the ETF's trading costs.	(see instruction 3)
ETF expenses	(see instruction 4)

(3) Unless the ETF has not yet filed a management report of fund performance, above the table required under subsection (2), include a statement using wording similar to the following:

> As of [see instruction 5], the ETF's expenses were [insert amount included in table required under subsection (2)]% of its value. This equals $[see instruction 6] for every $1,000 invested.

(4) For an ETF that has not yet filed a management report of fund performance, state the following:

> The ETF's expenses are made up of the management fee, operating expenses and trading costs. The [class'/series'/ETF's] annual management fee is [see instruction 7]% of the [class'/series'/ETF's] value. As this [class/series/ETF] is new, operating expenses and trading costs are not yet available.

(5) If the ETF pays an incentive fee that is determined by the performance of the ETF, provide a brief statement disclosing the amount of the fee and the circumstances in which the ETF will pay it.

(6) Under the sub-heading "Trailing commission", include a description using wording substantially similar to the following:

> The trailing commission is an ongoing commission. It is paid for as long as you own the ETF. It is for the services and advice that your representative and their firm provide to you.

(7) If the manager of the ETF or another member of the ETF's organization does not pay trailing commissions, include a description using wording substantially similar to the following:

> This ETF doesn't have a trailing commission.

(8) If the manager of the ETF or another member of the ETF's organization pays trailing commissions, disclose the range of the rates of the trailing commission after providing a description using wording substantially similar to the following:

> [Insert name of the manager of the ETF] pays the trailing commission to your representative's firm. It is paid from the ETF's management fee and is based on the value of your investment.

(9) If the manager of the ETF or another member of the ETF's organization pays trailing commissions for the class or series of securities of the ETF described in the ETF facts document but does not pay trailing commissions for another class or series of securities of the same ETF, state using wording substantially similar to the following:

> This ETF also offers a [class/series] of [units/shares] that does not have a trailing commission. Ask your representative for details.

INSTRUCTIONS:

(1) If any fees or expenses otherwise payable by the ETF were waived or otherwise absorbed by a member of the organization of the ETF, despite subsection 15.1(2) of National Instrument 81-106 Investment Fund Continuous Disclosure, only include a statement in substantially the following words:

> *[Insert name of the manager of the ETF] waived some of the ETF's expenses. If it had not done so, the MER would have been higher.*

(2) Use the same MER that is disclosed in Item 2 of Part I of this Form. If applicable, include a reference to any fixed administration fees in the management expense ratio description required in the table under Item 1.3(2) of Part II of this Form.

(3) Use the trading expense ratio disclosed in the most recently filed management report of fund performance for the ETF.

(4) The amount included for ETF expenses is the amount arrived at by adding the MER and the trading expense ratio. Use a bold font or other formatting to indicate that ETF expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the ETF.

(5) Insert the date of the most recently filed management report of fund performance.

(6) Insert the equivalent dollar amount of the ongoing expenses of the ETF for each $1,000 investment.

(7) The percentage disclosed for the management fee must correspond to the percentage shown in the fee table in the final prospectus.

(8) For an ETF that is required to include the disclosure under subsection (4), in the description of the items that make up ETF fees, include a reference to any fixed administrative fees, if applicable. Also disclose the amount of the fixed administration fee in the same manner as required for the management fee. The percentage disclosed for the fixed administration fee must correspond to the percentage shown in the fee table in the final prospectus.

(9) In disclosing the range of rates of trailing commissions, show both the percentage amount and the equivalent dollar amount for each $1,000 investment.

1.4 – Other Fees

(1) If applicable, provide the sub-heading "Other Fees".

(2) Provide information about the amount of fees payable by an investor when they buy, hold, sell or switch units or shares of the ETF, substantially in the form of the following table:

Fee	**What you pay**
Redemption Fee	[Insert name of the manager of the ETF] may charge you up to [see instruction 1]% of the value of your [units/shares] you redeem or exchange directly from [insert name of the manager of the ETF]. (see instruction 1)
Other fees [*specify type*]	[*specify amount*] (see instructions 2 and 3)

INSTRUCTIONS:

(1) The percentage disclosed for the redemption fee must correspond to the percentage shown in the final prospectus.

(2) Under this Item, it is necessary to include only those fees that apply to the particular class or series of securities of the ETF. Examples include management fees and administration fees payable directly by investors, and switch fees. This also includes any requirement for an investor to participate in a fee-based arrangement with their dealer in order to be eligible to purchase the particular class or series of securities of the ETF. If there are no other fees associated with buying, holding, selling or switching units or shares of the ETF, replace the table with a statement to that effect.

(3) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee. If the amount of the fee varies so that specific disclosure of the amount of the fee cannot be disclosed include, where possible, the highest possible rate or range for that fee.

Item 2 – Statement of Rights

Under the heading "What if I change my mind?", state using wording substantially similar to the following:

> Under securities law in some provinces and territories, you have the right to cancel your purchase within 48 hours after you receive confirmation of the purchase.
>
> In some provinces and territories, you also have the right to cancel a purchase, or in some jurisdictions, claim damages, if the prospectus, ETF Facts or financial statements contain a misrepresentation. You must act within the time limit set by the securities law in your province or territory.
>
> For more information, see the securities law of your province or territory or ask a lawyer.

Item 3 – More Information about the ETF

(1) Under the heading "For more information", state using wording substantially similar to the following:

> Contact [insert name of the manager of the ETF] or your representative for a copy of the ETF's prospectus and other disclosure documents. These documents and the ETF Facts make up the ETF's legal documents.

(2) State the name, address and toll-free telephone number of the manager of the ETF. If applicable, also state the e-mail address and website of the manager of the ETF.

14. Transition

(1) An ETF must, on or before November 12, 2018, file a completed Form 41-101F4 *Information Required in an ETF Facts Document* for each class or series of securities of the ETF that, on that date, are the subject of disclosure under a prospectus.

(2) The date of an ETF facts document filed under subsection (1) must be the date on which it was filed.

15. Effective date

(1) Subject to subsection (2), this Instrument comes into force on March 8, 2017.

(2) The provisions of this Instrument listed in column 1 of the following table come into force on the date set out in column 2 of the table:

Column 1: Provisions of this Instrument	**Column 2: Date**
5(a), 6-14	September 1, 2017
5(b)	The later of (a) December 10, 2018, and (b) the day on which sections 4, 14 and 17 of Schedule 28 to the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* (Ontario) are proclaimed into force.

5.1.5 Amendments to National Instrument 81-106 Investment Fund Continuous Disclosure

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

1. National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this Instrument.

2. Section 11.2 is amended by replacing paragraph (1)(d) with the following:

(d) file an amendment to its prospectus, simplified prospectus, fund facts document or ETF facts document that discloses the material change in accordance with the requirements of securities legislation.*.*

3. This Instrument comes into force on March 8, 2017.

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Chapter 9

Legislation

9.1.1 Ontario Regulation 446/16, amending Ontario Regulation 1015

On December 12, 2016, Ontario Regulation 446/16 was filed. It came into force on January 1, 2017. This Regulation amended Ontario Regulation 1015. A consolidated up-to-date version of Ontario Regulation 1015 is available on Ontario elaws at: https://www.ontario.ca/laws/regulation/901015. The most significant element of the amendments was the updating of Part VI of Ontario Regulation 1015, dealing with over-the-counter trading, to replace references to the COAT System with references to the CUB System. The text of the amendments follows:

ONTARIO REGULATION 446/16
made under the
SECURITIES ACT
Amending Reg. 1015 of R.R.O. 1990
(GENERAL)

1. Subsection 1 (2) of Regulation 1015 of the Revised Regulations of Ontario, 1990 is revoked.

2. Subsection 110 (1) of the Regulation is amended by striking out "*Registration Requirements and Exemptions***" in the portion before clause (a) and substituting "***Registration Requirements, Exemptions and Ongoing Registrant Obligations***".**

3. Section 134 of the Regulation is amended by striking out "Form 8**" at the end and substituting "**Form 8, Summons to a Witness Before a Person Designated Under Section 31 of the Act, available on the website of the Government of Ontario Central Forms Repository**".**

4. Section 152 of the Regulation is revoked and the following substituted:

152. (1) In this Part,

"CUB security" means, subject to subsection (2),

(a) a share of a company,

(b) a right or warrant, but not an option, to purchase a share of a company, or

(c) any combination of a share of a company and a right or warrant, but not an option, to purchase a share of a company;

"CUB System" means the web-based system operated by Canadian Unlisted Board Inc., which is wholly owned by TSX Venture Exchange Inc., for the reporting of over-the-counter trading.

(2) The definition of "CUB security" does not include,

(a) a security of a private issuer as defined in subsection 2.4 (1) of National Instrument 45-106 Prospectus Exemptions;

(b) a security that, under section 2.13 or 2.20, subsection 2.21 (1), paragraph 2.34 (2) (b), (d.1), (e) or (f), subsection 2.35 (1) or section 2.38 of National Instrument 45-106 Prospectus Exemptions, is exempt from the prospectus requirement;

(c) a security that, under paragraph 1 or 2 of section 73 of the Act, paragraph 1 of subsection 73.1 (1) of the Act, subsection 73.1 (6) of the Act or subsection 73.2 (1) or (3) of the Act, is exempt from the prospectus requirement; or

(d) a security that is traded on a marketplace.

5. Section 153 of the Regulation is revoked.

6. Section 154 of the Regulation is revoked and the following substituted:

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.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).

154. (1) Every purchase or sale in Ontario of a CUB security made by a registered dealer, as principal or agent, shall be reported to the CUB System except for a purchase or sale that is,

(a) made through the facilities of a marketplace outside Canada, or is required to be reported to a marketplace or a self-regulatory organization outside Canada immediately following execution, if,

(i) the purchase or sale is monitored for compliance with applicable securities law, and

(ii) information concerning the purchase or sale is provided to an information vendor or a person performing a similar function respecting public dissemination of data;

(b) a distribution by or on behalf of an issuer; or

(c) a purchase or sale made in reliance on an exemption set out in section 2.3, 2.5, 2.8, 2.10 or 2.15 of National Instrument 45-106 *Prospectus Exemptions*.

(2) Every purchase or sale of a CUB security that is required to be reported under subsection (1) shall be reported to the CUB System,

(a) by the registered dealer by or through whom the sale is made; or

(b) in the case of a sale not made by or through a registered dealer, by the registered dealer by or through whom the purchase is made.

7. Sections 155, 156 and 157 of the Regulation are revoked.

8. Section 158 of the Regulation is amended by striking out "COAT System**" and substituting "**CUB System**".**

9. Section 159 of the Regulation is revoked.

10. Section 160 of the Regulation is amended by striking out "Form 39**" at the end and substituting "**Form 39, Endorsement of Warrant, available on the website of the Government of Ontario Central Forms Repository**".**

11. Section 161 of the Regulation is amended by striking out "Ontario Securities Commission Rule 55-502**" in the portion before clause (a) and substituting "**National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*, Ontario Securities Commission Rule 55-502**".**

12. (1) Paragraph 2 of section 163 of the Regulation is amended by striking out "Form 1**" at the end and substituting "**Form 1, Summons to a Witness, available on the website of the Government of Ontario Central Forms Repository**".**

(2) Paragraph 3 of section 163 of the Regulation is amended by striking out "Form 2**" at the end and substituting "**Form 2, Affidavit of Service, available on the website of the Government of Ontario Central Forms Repository**".**

13. Section 164 of the Regulation is revoked.

14. Section 168 of the Regulation is amended by striking out "Form 37**" at the end and substituting "**Form 37, Report by a Registered Owner of Securities Beneficially Owned by an Insider, available on the website of the Government of Ontario Central Forms Repository**".**

15. Section 169 of the Regulation is amended by striking out "Form 38**" at the end and substituting "**Form 38, Report Under Section 117 of the Act, available on the website of the Government of Ontario Central Forms Repository**".**

16. Subsection 173 (1) of the Regulation is amended by striking out "Form 36**" and substituting "**Form 55-102 F6 (made under National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*)**".**

17. Part XV of the Regulation is revoked.

18. Subsection 252 (1) of the Regulation is amended by striking out "clause 72 (7) (b) of the Act**" and substituting "**section 2.8 of National Instrument 45-102 *Resale of Securities***".**

19. Forms 1, 2, 8, 37, 38, 39 and 41 are revoked.

Commencement

20. This Regulation comes into force on the later of January 1, 2017 and the day it is filed.

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Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
Franklin Liberty Canadian Investment Grade Corporate ETF
Franklin Liberty Risk Managed Canadian Equity ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 10, 2017
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Franklin Templeton Investments Corp.
Project #2583040

Issuer Name:
Franklin LibertyQT International Equity Index ETF
Franklin LibertyQT U.S. Equity Index ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 13, 2017
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
FRANKLIN TEMPLETON INVESTMENTS CORP
Project #2583140

Issuer Name:
Franklin Target Return Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 13, 2017
Offering Price and Description:
Series A, F, PF and O Units
Underwriter(s) or Distributor(s):
Franklin Templeton Investments Corp.
Promoter(s):
FRANKLIN TEMPLETON INVESTMENTS CORP.
Project #2583151

Issuer Name:
June 2021 Investment Grade Bond Pool
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form dated February 7, 2017
NP 11-202 Preliminary Receipt dated February 7, 2017
Offering Price and Description:
Maximum Offering: $ * - * Units
Minimum Offering: $15,000,000 - 1,500,000 Units
Price: $10.00 per Class A Unit and er Class T Unit
Price: 100 Units
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
GMP Securities L.P.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Industrial Alliance Securities Inc.
Raymond James Ltd.
Manulife Securities Incorporated
Echelon Wealth Partners Inc.
Mackie Research Capital Corporation
Promoter(s):
Redwood Asset Management Inc.
Project #2580503

Issuer Name:
MDPIM Canadian Index Pool
MDPIM International Index Pool
MDPIM U.S. Index Pool
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 10, 2017
Offering Price and Description:
Series A Units
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
MD Financial Management Inc.
Project #2582991

Issuer Name:
Clearpoint Short Term Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated February 13, 2017
NP 11-202 Receipt dated February 13, 2017
Offering Price and Description:
Series A, F and I units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2552022

Issuer Name:
Questrade Russell 1000 Equal Weight US Consumer Discretionary Index ETF Hedged to CAD
Questrade Russell 1000 Equal Weight US Health Care Index ETF Hedged to CAD
Questrade Russell 1000 Equal Weight US Industrials Index ETF Hedged to CAD
Questrade Russell 1000 Equal Weight US Technology Index ETF Hedged to CAD
Questrade Russell US Midcap Growth Index ETF Hedged to CAD
Questrade Russell US Midcap Value Index ETF Hedged to CAD
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated February 8, 2017
NP 11-202 Receipt dated February 9, 2017
Offering Price and Description:
Exchange traded units at net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2570154

NON-INVESTMENT FUNDS

Issuer Name:
American Hotel Income Properties REIT LP
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 10, 2017
Offering Price and Description:
US$ 500,000,000.00 - Units/Warrants/Debt
Securities/Subscription Receipts

Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2583062

Issuer Name:
Aphria Inc. (formerly, Black Sparrow Capital Corp.)
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 9, 2017
NP 11-202 Preliminary Receipt dated February 9, 2017
Offering Price and Description:
$50,000,000.00 - 10,000,000 Common Shares
Price: $5.00 per Common Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
Cormark Securities Inc.
Canaccord Genuity Corp.
Haywood Securities Inc.
PI Financial Corp.
Promoter(s):
-
Project #2581449

Issuer Name:
Brookfield Asset Management Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 10, 2017
Offering Price and Description:
$US 2,500,000,000.00
(1) Debt Securities
Class A Preference Shares
Class A Limited Voting Shares
(2) Debt Securities
Unconditionally guaranteed as to payment of principal,
premium,
if any, and interest by Brookfield Asset Managment Inc.
(3)Debt Securities
Unconditionally guaranteed as to payment of principal,
premium,
if any, and interest by Brookfield Asset Managment Inc.
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2582877

Issuer Name:
Brookfield Finance Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 10, 2017
Offering Price and Description:
$US 2,500,000,000.00
(1) Debt Securities
Class A Preference Shares
Class A Limited Voting Shares
(2) Debt Securities
Unconditionally guaranteed as to payment of principal,
premium,
if any, and interest by Brookfield Asset Managment Inc.
(3)Debt Securities
Unconditionally guaranteed as to payment of principal,
premium,
if any, and interest by Brookfield Asset Managment Inc.
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2582878

Issuer Name:
Brookfield Finance LLC
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 10, 2017
Offering Price and Description:
$US 2,500,000,000.00
(1) Debt Securities
Class A Preference Shares
Class A Limited Voting Shares
(2) Debt Securities
Unconditionally guaranteed as to payment of principal, premium,
if any, and interest by Brookfield Asset Managment Inc.
(3)Debt Securities
Unconditionally guaranteed as to payment of principal, premium,
if any, and interest by Brookfield Asset Managment Inc.
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2582880

Issuer Name:
Genesis Trust II
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 13, 2017
Offering Price and Description:
Up to $7,000,000,000.00 Real Estate Secured Line of Credit Backed Notes
Underwriter(s) or Distributor(s):
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Desjardins Securities Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Promoter(s):
The Toronto Dominion Bank
Project #2583366

Issuer Name:
LEAGOLD MINING CORPORATION
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated February 7, 2017
NP 11-202 Preliminary Receipt dated February 8, 2017
Offering Price and Description:
$* - * Subscription Receipts
Price: $* per Subscription Receipt
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
UBS Securities Canada Inc.
Promoter(s):
-
Project #2582244

Issuer Name:
Pure Multi-Family REIT LP
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 10, 2017
Offering Price and Description:
US$ 500,000,000.00
Units
Debt Securities
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
Pure Multifamily Management Limited Partnership
Project #2583162

Issuer Name:
STEP Energy Services Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated February 9, 2017
NP 11-202 Preliminary Receipt dated February 9, 2017
Offering Price and Description:
$* - * Common Shares
Price: $* per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Raymond James Ltd.
Promoter(s):
-
Project #2582636

Issuer Name:
Trisura Group Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 10, 2017
NP 11-202 Preliminary Receipt dated February 13, 2017
Offering Price and Description:
5,250,000 Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2583257

Issuer Name:
Ag Growth International Inc.
Principal Regulator - Manitoba
Type and Date:
Final Short Form Prospectus (NI 44-101) dated February 8, 2017
NP 11-202 Receipt dated February 8, 2017
Offering Price and Description:
$60,610,000.00 - 1,100,000 Common Shares, Price: $55.10 per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
Altacorp Capital Inc.
Cormark Securities Inc.
Laurentian Bank Securities Inc.
Promoter(s):
-
Project #2580481

Issuer Name:
Aveda Transportation and Energy Services Inc.(formerly Phoenix Oilfield Hauling Inc.)
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated February 9, 2017
NP 11-202 Receipt dated February 9, 2017
Offering Price and Description:
Minimum Offering: $20,000,400.00 or 33,334,000 Common Shares
Maximum Offering: $25,000,200.00 or 41,667,000 Common Shares
Price: $0.60 per Common Share
Underwriter(s) or Distributor(s):
Beacon Securities Limited
Canaccord Genuity Corp.
PI Financial Corp.
MacKie Research Capital Corporation
Promoter(s):
-
Project #2574251

Issuer Name:
CannaRoyalty Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 8, 2017
NP 11-202 Receipt dated February 8, 2017
Offering Price and Description:
$15,000,000.00 - 5,000,000 Units, Price: $3.00 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Clarus Securities Inc.
Mackie Research Capital Corporation
Beacon Securities Limited
Sprott Private Wealth LP
PI Financial Corp.
Promoter(s):
AJKNJ Corp.
Project #2575436

Issuer Name:
Fairfax Africa Holdings Corporation
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated February 8, 2017
NP 11-202 Receipt dated February 8, 2017
Offering Price and Description:
US$56,220,000.00 - 5,622,000 Subordinate Voting Shares
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Citigroup Global Markets Canada Inc.
UBS Securities Canada Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Genuity Corp.
Cormark Securities Inc.
Desjardins Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
Dundee Capital Partners
Manulife Securities Incorporated
Promoter(s):
Fairfax Financial Holdings Limited
Project #2569326

Issuer Name:
Kew Media Group Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated February 10, 2017
NP 11-202 Receipt dated February 13, 2017
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
KMG Entertainment GP Inc
John Schmidt
Project #2581476

Issuer Name:
Student Transportation Inc. (formerly, Student Transportation of America Ltd.)
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 9, 2017
NP 11-202 Receipt dated February 9, 2017
Offering Price and Description:
Up to 2,635,695 Common Shares issuable in exchange for Class B Series Three Common Shares of Student Transportation of America Holdings, Inc.
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2575278

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: BlueCrest Capital Management (Canada) Limited To: GWN Capital Management Ltd.	Portfolio Manager and Commodity Trading Manager	January 23, 2017
Voluntary Surrender	Carlisle Capital Mortgage Corporation	Exempt Market Dealer	February 6, 2017
Voluntary Surrender	Omnus Investments Ltd.	Exempt Market Dealer	February 9, 2017
New Registration	Raintree Wealth Management Inc.	Portfolio Manager and Investment Fund Manager	February 10, 2017
Consent to Suspension (Pending Surrender)	CUDA Management Consulting Inc.	Exempt Market Dealer	February 7, 2017
Name Change	From: Dundee Capital Partners To: Eight Capital	Investment Dealer	January 27, 2017
Name Change	From: Veracap M&A International Inc. To: Duff & Phelps Securities Canada Limited	Exempt Market Dealer	January 31, 2017

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 IIROC – Universal Market Integrity Rules – Amendments Respecting Designations and Identifiers – Notice of Commission Approval

NOTICE OF COMMISSION APPROVAL

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

**AMENDMENTS TO THE UNIVERSAL MARKET INTEGRITY RULES
RESPECTING DESIGNATIONS AND IDENTIFIERS**

The Ontario Securities Commission has approved IIROC's proposal to introduce two new order designations (bundled order designation and derivative-related cross designation) and modify the existing bypass order marker from a public to a private marker for bypass orders that are not part of a designated trade ("Amendments").

The Amendments have also been approved or non-objected to by the Alberta Securities Commission; the Autorité des marchés financiers; the British Columbia Securities Commission; the Financial and Consumer Affairs Authority of Saskatchewan; the Financial and Consumer Services Commission of New Brunswick; the Manitoba Securities Commission; The Nova Scotia Securities Commission; the Office of the Superintendent of Services, Service Newfoundland and Labrador; and the Prince Edward Island Office of the Superintendent of Securities Office.

The Amendments are intended to achieve the following objectives:

- With respect to the bundled order designation, to restore the integrity of the order marker audit trail and eliminate the necessity to unbundle trades at the end of the day by filing a Corrections Report to the Regulatory Marker Correction System;

- With respect to the derivative-related cross designation, to provide adequate transparency to industry participants on derivative-related cross transactions that are not open to general market participation;

- With respect to the modification of the bypass order marker, to address potential information leakage that can result from the public display of the bypass order marker.

The Amendments were originally published for comment on June 9, 2016. IIROC has made non-substantive changes to the proposed amendments as published in response to comments received. A summary of the comments and IIROC's responses, as well as the text of the approved Amendments, can be found at www.osc.gov.on.ca.

The Amendments will be effective on September 14, 2017.

13.2 Marketplaces

13.2.1 Canadian Securities Exchange – Market Maker Participation and Peg Orders – Notice of Approval

Notice 2017-002
February 16, 2017

CANADIAN SECURITIES EXCHANGE

NOTICE OF APPROVAL

MARKET MAKER PARTICIPATION AND PEG ORDERS

INTRODUCTION

In accordance with the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 (the "Protocol"), CNSX Markets Inc. ("CSE") has adopted, and the Ontario Securities Commission (OSC) has approved, significant changes to the CSE Trading System.

On September 22, 2016, issued *Notice 2016-014 – Request for Comment – Amendments to Trading System Functionality & Features* (the "Notice"). CSE proposed to implement new functionality and features with the launch of its new trading system in October 2016. The period for public comment expired on Monday October 24, 2016.

CSE received four public comment letters. In accordance with s. 8(b)(ii) of Appendix C "Process For The Review And Approval Of Rules And The Information Contained In Form 21-101F1 and the Exhibits Thereto" of the CSE Recognition Order ("Protocol"), the CSE has prepared a summary of the public comments and a response to those comments (Appendix A to this letter).

Amendments to the proposed participation functionality have been made in response to the comments received. The amendments to the proposed functionality are highlighted below.

DESCRIPTION OF THE PROPOSED FUNCTIONALITY

Peg orders – Market Peg and Mid-Point Peg

Market pegs are buy/sell orders "pegged" to one trading increment away from the contra-side of the consolidated market National Best Bid and Offer ("NBBO"). The consolidated NBBO will be comprised of protected market quotes.

Mid-point pegs are buy/sell orders pegged to the midpoint of the consolidated market NBBO.

Peg orders can trade at the half-cent increment, and the execution price will be recalculated as the NBBO changes, subject to any limit price on the order.

Peg orders are not displayed in the book or disseminated publicly but are sent to the IIROC Market Regulation feed upon entry or trade. Changes in the price of the order resulting from changes in the NBBO will not be provided to the IIROC Market Regulation Feed.

- If there is a one sided market, or a locked/or crossed market (no valid NBBO), peg orders will not trade
- Peg orders entered when there is no valid NBBO will be accepted, but no execution price will be assigned until there is a valid NBBO
- Peg orders are always passive and follow regular priority rules (price, firm, time)
- Peg orders can be entered in any session where order entry is permitted but are only tradeable in continuous trading and if pegged order matching session has been enabled. (Peg Session is 9:30am-4:00pm)

Market Maker Participation

Market Maker Participation is an optional feature that enables a designated Market Maker to automatically trade with up to 40% of the boardlot volume of certain incoming orders.

- The Participation feature will allocate a percentage of the boardlot volume (% of Incoming Orders) of each incoming ~~GMF eligible~~ order less than or equal to the GMF.

- Market Makers may set a percentage of participation between 0% and a maximum of 40% and may set a Maximum total volume tradeable Buy/sell side.

- ~~When participation is on, GMF eligible orders will be filled at the NBBO.~~

- The Market Maker Participation status on a security is not sent publicly but is sent on GPC FIX (IIROC Market Regulation feed)

- The allocation between booked orders and the Market Maker will start with the first boardlot trading with the book. Incoming orders of less than two boardlots will therefore not be subject to Participation, as a one boardlot order will be sent to the book. A two boardlot order will be split as one boardlot to the market maker and one boardlot) to the book. This is the only exception to the maximum 40% participation, and is consistent with existing functionality on the Toronto Stock Exchange. ~~The participation volume allocation will be rounded down to the nearest full board lot but participation will be rounded up to fill incoming orders incoming of less than 200 shares~~. Examples (with participation set to maximum 40%, boardlot of 100 shares):

  - 100 shares, the order will trade with the resting orders only;

  - 200 shares, the order will trade 50% with the Market Maker and the balance with the resting orders in the book;

  - 300 shares, the order will trade 33.3% with the Market Maker and the balance with the resting orders in the book;

  - 400 shares, the order will trade 25% with the Market Maker and the balance with the resting orders in the book;

  - 500 shares, the order will trade 40% with the Market Maker and the balance with the resting orders in the book.

Odd lots will sweep the book at or better than the bid/ask, then any oddlot portion that was not filled in the book will automatically trade against the Market Maker.

IMPLEMENTATION

Both participation and peg orders will be available in the CSE GTE prior to implementation. It is anticipated that the features will be promoted to production on or about May 12, 2017.

SUMMARY OF COMMENTS

The CSE received four comment letters. A summary of the comments and CSE responses is attached as Appendix “A”.

Appendix A

Notice 2016-014 – Request for Comment – Amendments to Trading System Functionality & Features

Summary of Comments Received

The CSE received four comment letters:

- ITG Canada Corp. (ITG);
- The Trading Issues Committee of the Canadian Security Traders Association, Inc. (CSTA).
- Aequitas Neo Exchange Inc. (NEO), and
- TMX Group Limited (TMX).

We thank the commenters for submitting their views on the CSE proposals. As there were no comments on the proposed peg order types, our response will address the comments related to market maker participation. The comments can be summarized into four categories:

1) The comparison of the CSE proposal to existing marketplace features (comments from CSTA, TMX);

2) Requirement for price improvement when interacting with dark order types (CSTA, NEO);

3) Market segmentation and a call for a broad review of the subject (CSTA, ITG, NEO, TMX)

4) Benefits of the Proposal (CSTA, ITG, NEO)

1. COMPARISON OF THE CSE PROPOSAL TO EXISTING MARKETPLACE FEATURES

CSTA Comments

The CSTA observes "*significant material differences*" from the TSX RT participation feature and recommends that the CSE proposal be considered separate and distinct and "*without specific precedent in Canada*". The material differences cited are:

a) For orders of two board lots participation is 50%, and in the case of one board lot participation increases to 100%; and

b) TSX participation "obligates" the TSX RT to interact with a portion of "*all market-bound active flow*" rather than just MGF-eligible flow.

CSE Response

While the CSTA comments accurately identify the differences between the approach proposed by the CSE and the long existing TMX programme, the CSE disagrees with the conclusion that the differences are material.

a) While the maximum participation rate on the Toronto Stock Exchange has varied, whether the stated maximum rate was 40% or 50%, the participation level on a 2 boardlot order has been 50% by necessity. For orders of less than 200 shares, the CSE is amending its proposal to provide that a 100 share order would interact with resting orders first. The allocation process, as revised, would work as follows for incoming GMF-eligible orders:

  - 100 shares (or one board lot), the order will trade with the resting orders only;
  - 200 shares, the order will trade 50% with the Market Maker and the balance with the resting orders in the book;
  - 300 shares, the order will trade 33.3% with the Market Maker and the balance with the resting orders in the book;
  - 400 shares, the order will trade 25% with the Market Maker and the balance with the resting orders in the book;

- 500 shares, the order will trade 40% with the Market Maker and the balance with the resting orders in the book.

In each of these share allocation examples, the Market Maker will fill any oddlot portion that was not filled in the book.

b) The CSE does not accept the characterization of RT participation with "all market-bound active flow" as an "obligation". The participation feature may be turned on and off intraday at the discretion of the market maker on the TSX. We address the concerns around order segmentation below.

NEO Comments

NEO also identifies GMF-Eligible orders vs MGF sized orders as a key difference between the CSE proposal and TSX feature.

CSE Response

We note that the discussion of this difference relates primarily to the segmentation discussion, below.

TMX Comments

The TMX comments address perceived differences in the market making programs overall, highlighting the TSX role as a listing exchange and the obligations to its issuers.

a) "*This includes a market making program that imposes obligations on TSX Market Makers that are intended to help enhance the efficiency and effectiveness of price discovery, augment liquidity, fill liquidity 'gaps', support the order flow of the retail investor, provide a frontline role in monitoring trading activity, mitigate price volatility and help to stabilize the market, and support the efficiency and quality of the opening reference price in the industry. In contrast,* ***CSE and Aequitas do not have these responsibilities to TSX issuers, nor would the market or issuers expect CSE or Aequitas and its market makers to take on a similar role for TSX listed securities****.*" [emphasis added]

b) "[Point (a)] r*aises questions as to the intended objective of the CSE … market making programs when applied to securities they do not list*."

c) Participation with only GMF-eligible orders, combined with the outstanding CSE fee proposal, appears "*ultimately intended to better facilitate* a "one-to-many" (i.e., "one-to-retail) experience."

CSE Response

As a listing exchange, we recognize the importance of the relationship between an exchange and its issuers. In broader terms, exchanges play a significant role in maintaining market integrity. Furthermore, exchanges must conduct business and operations in a manner that is consistent with the public interest. These principles apply whether a traded security is listed or simply traded on a particular exchange facility. The existence of officially designated market makers on any trading facility is to improve the overall quality of the price discovery process. By addressing the temporal discontinuities present in many listed securities (i.e. the fact that potentially matching buy and sell orders from "natural" market participants may not be entering the market at the same time), a market maker increases price continuity, reduces volatility, and encourages interested participants to cross the spread to trade because the market maker has committed bids and offers to the book and offers an automated execution for eligible orders. The fact that market makers may be providing this service on multiple platforms does not detract from the beneficial effects of the service; instead, the benefits are enhanced by virtue of the additional contribution of executable orders and competition between or among the different marketplace market makers.

We also observe:

a) The obligation of the Registered Traders on the TSX is not a commitment to the issuer, but to the exchange. While the exchange may have an obligation to the issuers, the explicit requirements for Registered Traders are not included in the listing agreement, but in the in the trading rules and policies. CSE trading rules for Designated Market Makers include all of the same obligations, many of which are described in UMIR[1]. The CSE trading rules apply to any security traded on the CSE, not just those that are listed on the CSE.

b) The intended objective of the CSE is to increase the competitiveness of our venue by providing cost effective fills for retail clients.

[1] Universal Market Integrity Rules, Part 1 – Definitions and Interpretation, "Marketplace Trading Obligations".

2. REQUIREMENT FOR PRICE IMPROVEMENT WHEN INTERACTING WITH DARK ORDER TYPES

CSTA and NEO Comments

Both CSTA and NEO raised the issue of the participation proposal contravening the "Dark Rules". Whether circumventing "the letter and spirit" of the rules (CSTA) or resulting in "technical violations of UMIR section 6.6", each of the two commenters takes the position that the automatically executed orders against the market maker are akin to the market maker having undisplayed orders in the book.

CSE Response

Trades generated at the market against a designated market maker are not included in UMIR 6.6 or any of the relevant definitions. This specific issue was raised prior to the introduction of UMIR 6.6 Provision of Price Improvement by a Dark Order, which was approved and implemented in 2012. In response to an ITG observation that "*market makers on the TSX are able to participate in small trades without posting visible orders and offering price improvement*", IIROC stated: "*Market makers on the TSX are able to participate in certain trades as a result of the Minimum Guaranteed Fill and automated market maker participation features. However, market makers also have associated obligations not required of other participants. The market maker orders are system-generated by the trading system of the TSX in accordance with marketplace rules that have been approved by the applicable securities regulatory authorities and which are transparent to the public*."[2]

3. MARKET SEGMENTATION AND A CALL FOR REVIEW

CSTA Comments

CSTA believes that the CSE participation model would worsen existing conditions related to segmentation of retail order flow by allowing a select counterparty to internalize flow to the exclusion of all other participants who may be resting orders in the market.

CSE Response

The use of the phrase "internalize flow to the exclusion of all other participants" is inaccurate. The designated market maker is not internalizing flow as a dealer does in matching offsetting orders against each other away from the market and reporting the resulting trade as a cross to a marketplace. Instead, under the participation feature in place at the TSX and proposed by the CSE, the participation feature is only triggered when a marketable order is entered into the market. These marketable orders are directed to the market, contributing to price discovery and liqudity, and will trade between 60% and 100% with resting orders in the book.

ITG Comments

The CSE proposal takes segmentation one significant step further, and CSA needs to "*define the goalposts of segmentation once and for all*".

CSE Response

While the CSE would participate in any review of the segmentation issue, the CSE proposal is squarely within the context of current rules and practices and should not be subject to delay outside the normal review process.

NEO Comments

NEO also observes that the market maker only interacts with "uninformed" flow, and can step ahead of posted visible liquidity 40% of the time. Resting institutional orders will be exposed primarily to more "informed" flow. NEO also highlighted the difference between the CSE Proposal and the TSX model; specifically that both retail and other types of orders can participate on the contra side of a "participation" trade with the market maker.

CSE Response

As with other arguments about segmentation, the premise here is that retail (or "GMF-eligible" or "uninformed") order flow is the most desirable type of order to trade against. By giving the market maker an opportunity to interact with these orders through the use of the participation feature, the market maker is getting an unfair advantage over other market participants. Other institutional orders are "exposed" in the book and therefore more likely to receive a fill from an undesirable counterparty. Simply put, it is not unreasonable for market makers to be compensated for their obligation to post a continuous two-sided market with

[2] IIROC Notice 12-0130 – Rules Notice – Notice of Approval– UMIR – Provisions Respecting Dark Liquidity (http://www.iiroc.ca/Documents/2012/77c0af22-004e-417d-9217-a160b3fcb5c5_en.pdf)

a reasonable spread at all times. One of the means of compensating for the risks assumed is to permit the market maker to participate with eligible orders when sufficient size is present in the book. This principle is of long standing in a number of auction market systems, including the TSX. Providing a participation feature allows the market maker to offset the risks of meeting their broader market obligations.

Additionally, it is worthwhile to note that GMF-eligible orders are not exclusively retail orders: under the CSE proposal, there is a strong likelihood that many "informed" or "institutional" or "directional" agency orders will meet the definition of eligibility for the GMF feature.

TMX Comments

TMX highlights the increasing interest in facilitating the segmentation of order flow on visible markets, and calls for a more robust discussion and policy review by regulators to define the extent to which segmentation is appropriate for the Canadian market.

CSE Response

Again, although the CSE would be a willing and active participant in any review of order flow segmentation in Canada, we submit that no sufficient reason to delay the implementation of the proposals, as amended in a non-material manner, has been put forward by the commenters.

4. BENEFITS OF THE PROPOSAL

CSTA Comments

CSTA states that the "*benefits of the CSE Proposal (if any) are targeted to a specific segment of the trading community (the CSE's designated market makers), and in fact there are clear disadvantages in the Proposal for participants that would post orders on CSE, including protected orders in CSE listings*."

CSE Response

Retail clients benefit in that there would be a high degree of certainty of an execution at the existing bid/offer spread, through the operation of the participation feature, under the GMF feature and by interacting with posted liquidity. Those that would post orders on the CSE can still participate with 60% to 100% of all incoming GMF-eligible orders, and 100% of all other orders.

ITG Comments

ITG states that

a) "*any trader or algo that appreciates adverse selection risk will reduce the size posted on the visible market, at any time, to reduce the risk of negative trades. This will result in less available liquidity at the NBBO*."

b) The clear winners are the market makers, who have been "*granted a low risk mechanism to trade with their preferred counter party, and the market facilitating this activity. The losers are the market participants who openly quote for trades at the risk of trading with any counter party, and are less able to transact with retail flow.*"

c) ITG comments that there is little evidence to suggest that any long term investors will benefit from this proposed program, but is very confident that institutional flows will be harmed and therefore questions the purpose for the proposal.

CSE Response

These thoughts are based on the premise that "informed" traders want to trade against "uninformed" traders and that the "informed" trader will take a number of steps to reduce his or her exposure to other such informed flow. This may well be the case. These traders may reduce the size offered in the book to reduce the risk of being adversely selected. There are a number of other "segmentation" issues that such traders will have to address: the broker preference rule, the order handling rules, and the existence of dark order types and dark pools. In order to provide a reasonable expectation of a good quality execution experience for the GMF-eligible order, the CSE is proposing a system whereby the market makers have obligations to fill GMF-eligible orders when there are insufficient resting orders at the same price. It is not unreasonable to permit them to interact with those same orders when the size is sufficient. This is particularly true when the market may be one sided with informed flow, and the market maker is obligated to fill eligible orders on the opposite side of the market.

a) If traders and algos reduce their posted size to "*reduce the risk of negative trades*", then they will accomplish their objective of not trading with each other. Liquidity for retail clients will be there in the form of the GMF, and given the maximum participation rate of 40%, there will be adequate flow for any traders that acknowledge the risks of being filled by entering an order in the book.

b) Market participants who openly quote for trades are ostensibly doing so with the intention of receiving a fill, regardless of the nature or intent of the counterparty.

c) The implication that institutional (directional, informed) flow will be harmed by a slight reduction in the ability to interact with uninformed flow is a reflection on the short term nature of that strategy. Long term investors, retail or institutional, that are simply seeking a fill rather than following the trend, will not be disadvantaged. In fact, they will benefit from improved fills and pricing.

TSX Comments

Participation with only GMF-eligible orders, combined with the outstanding CSE fee proposal, appears "*ultimately intended to better facilitate* a "one-to-many" (i.e., "one-to-retail) experience."

CSE Response

TMX did not provide comments on the outstanding fee proposal. We note that these comments raise the issue of segmentation through pricing but, as the other commenters, remain silent on the benefit to retail investors.

5. ADDITIONAL COMMENTS

CSTA Comment

In observing that the market maker will only trade against GMF-eligible flow rather than all inbound orders, CSTA states: "*If the CSE's existing resting orders are insufficient to fill the incoming active GMF-eligible ("retail") order, the MM would then internalize the retail order as a Guaranteed Minimum Fill. However, if an incoming active order is non-retail (non-GMF-eligible) the CSE market maker would avoid interacting with the active order, because the participation feature is constrained to GMF-eligible orders*."

CSE Response

We disagree with the characterization of a system-generated trade to guarantee a fill to retail client order as "internalization", particularly given the significant regulatory concerns about, and restrictions on, real internalization. As we indicate above, having assumed a variety of risks in meeting its obligations, it is not unreasonable to permit a market maker to interact with eligible orders when booked size is sufficient.

TMX Comment

TMX also suggests a broader policy discussion on whether an exchange should only be permitted to apply market maker obligations and benefits to the securities it lists.

CSE Response

As we suggested above, the policy rationale for encouraging market maker participation suggests that multiple, competing, market makers will generate a superior market quality result. We do not see any merit in the TMX's position that formal market making programmes should be restricted to the exchange listing the particular security.

SUMMARY

None of the letters submitted included comments on behalf of or in support of the retail client. The participation feature will permit market makers to offset the risks inherent in a guaranteed fill facility, thereby promoting (among other benefits) a larger GMF commitment from the market maker. GMF-eligible flow will benefit from reduced costs through a greater certainty of execution, larger average fill size, and reduced adverse selection.

The focus instead has been on segmentation of order flow, or more specifically, how market makers will have an unfair advantage by having the option to participate with small agency orders, but not similar sized institutional orders. The most vocal arguments against segmentation are from those who perceive a specific advantage to trading against segmented order flow. The perceived lack of fairness, expressed as an argument against segmentation, is a result of the fact that other orders will have less retail flow to trade against and may be forced to interact with "informed" flow. The characterization of such trades as

"negative fills" points to the strategies and motives of the market participants. While these factors play a significant role in the development of technology and services offered by marketplaces, they should not have a material impact on regulation. From a regulatory perspective, a resting order in the book is contributing to price discovery and is entitled to a fill from any counterparty, not just a desirable one.

The CSE has participated in a variety of formal and informal discussions with industry participants as a result of a recent fee proposal that has triggered considerable discussion about segmentation. Participants with an institutional equity trading orientation have tended to criticize the CSE's approach on the basis that it promotes an additional layer of "order segmentation". In other words, they believe restricting institutional client access to the predominately retail order flow represented by "GMF eligibility", will result in increased trading costs for their clients and potential harm to the price discovery process. Order segmentation is already deeply engrained in Canadian equity market structure. The minimum guarantee fill facility at the Toronto Stock Exchange dates back many years. The CSE's GMF facility operates in similar fashion. None of those orders may be accessed by the institutional community. There is also segmentation of flow by dealer (the broker preference rule) and by size (the client order handling rule). Institutional clients have seen an enormous amount of investment over the years in systems that are designed to permit them to locate the trade size they need without suffering the consequences of exposing their trading intentions to the broader market.

The appropriateness of applying different rules, prices and trading modalities to the various kinds of orders present in the market is a well-accepted principle of Canadian equity market structure.

13.3 Clearing Agencies

13.3.1 CDCC – Proposed Amendments to Sections A-102, A-1A09, Rule A-6 and Default Manual, and New Section A-411 and New Rule A-10 Establishing the Recovery Powers – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

**PROPOSED AMENDMENTS TO
SECTIONS A-102, A-1A09, RULE A-6 AND DEFAULT MANUAL, AND
NEW SECTION A-411 AND NEW RULE A-10 ESTABLISHING THE RECOVERY POWERS**

The Ontario Securities Commission is publishing for public comment the amendments to Sections A-102, A-1A09, Rule A-6 and Default Manual, and new Section A-411 and new Rule A-10 of CDCC's Rules. The purpose of the proposed amendments is to introduce and clarify certain notions governing the default management process, clarify the resignation process of a Clearing Member and establish and document the recovery power granted to CDCC in the course of its Default Management process leading to a Recovery Process.

The comment period ends March 20, 2017.

A copy of the CDCC Notice is published on our website at http://www.osc.gov.on.ca.

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