The Ontario Securities Commission

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Securities Act of Ontario (R.S.O. 1990, c. S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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NOTICE OF CO-OPERATION AGREEMENT CONCERNING
INNOVATIVE FINTECH BUSINESSES WITH
THE FRANCE AUTORITÉ DES MARCHÉS FINANCIERS

December 14, 2017

The Ontario Securities Commission, together with the Québec Autorité des Marchés Financiers, British Columbia Securities Commission, the Alberta Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Manitoba Securities Commission, the Financial and Consumer Services Commission (New Brunswick) and the Nova Scotia Securities Commission, have recently entered into a Co-operation Agreement ("the Agreement") with the France Autorité des Marchés Financiers ("AMF France") concerning co-operation and information sharing between authorities regarding their respective innovation functions. The Agreement provides a comprehensive framework for co-operation and information sharing and referrals related to the innovation functions which were established through the CSA Regulatory Sandbox initiative and by AMF France.

The Agreement is subject to the approval of the Minister of Finance. The Agreement was delivered to the Minister of Finance on December 14, 2017.

Questions may be referred to:

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Co-operation Agreement
regarding co-operation for innovation in the financial sector

between

the France Autorité des marchés financiers **(AMF France)**	**the Québec Autorité des marchés financiers**
the Ontario Securities Commission	**the Alberta Securities Commission**
The British Columbia Securities Commission	**the Financial and Consumer Affairs Authority of Saskatchewan**
the Manitoba Securities Commission	**the Nova Scotia Securities Commission**
the Financial and Consumer Services Commission **(New Brunswick)**	

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Article 1 Definitions

For the purpose of this Co-operation Agreement:

1. **"Authorisation"** means the process of licensing, registering, approving, authorising, granting exemptive relief, or otherwise bringing an entity under an Authority's supervisory remit so that it is authorised to carry on business in providing a financial service or issuing a financial product in the relevant Authority's jurisdiction, and "Authorised" has a corresponding meaning.

2. **"Authority"** means AMF France or the Canadian Authority (and, collectively, "the Authorities").

3. **"Canadian Authority"** means a securities regulatory authority established in Canada under provincial or territorial statute that is a signatory to this Co-operation Agreement as described in Article 9;

4. **"Confidential Information"** means any non-public information obtained by an Authority pursuant to this Co-operation Agreement.

5. **"Criteria for Support"** means the criteria of a Referring Authority that an Innovator business is required to meet before the Referring Authority refers the Innovator Business to a Receiving Authority;

6. **"Innovator Business"** means any entity which provides or intends to provide Innovative Financial Services in any Authorities' jurisdictions and that has been offered support from an Authority through its Innovative Function, or would qualify for such support.

7. **"FinTech"** means any innovative financial technology that will be used or is intended to be used by Financial Innovators including, but not limited to, funding platforms, blockchain, DLT and Big Data.

8. **"Innovation Function"** means the dedicated function established by an Authority to support innovation in financial services in their respective markets.

9. **"Innovative Financial Services"** means any services that are provided by means of FinTech.

10. **"Receiving Authority"** means

    (a) Where the Referring Authority is the AMF France, any Canadian Authority to which a referral is made under the agreement; and

    (b) Where the Referring Authority is a Canadian Authority, the AMF France;

11. **"Referring Authority"** means the Authority that is referring an Innovator Business to the Receiving Authority; and

12. **"Regulations"** means any regulation, regulatory requirement or guidelines applicable in the jurisdiction of an Authority;

Article 2 Purpose of the Co-operation Agreement

1. The Authorities intend to co-operate with the aim of encouraging and enabling innovation in their respective financial services industries and of supporting Innovator Businesses in meeting the Regulations in each other's jurisdictions as may be required to offer Innovative Financial Services in their respective financial markets. To this end, each of the Authorities established, in their respective financial markets, a specific FinTech-friendly environment and specific FinTech Innovation Functions.

2. The Authorities believe that by co-operating with each other, innovation in financial services, investor protection and subsequently competitiveness will be enhanced in their respective markets.

3. Enhanced co-operation between the Authorities will facilitate Innovator Businesses to enter and provide Innovative Financial Services in the other jurisdictions and promote knowledge sharing.

Article 3 FinTech Innovation functions provided by the Authorities

1. In June 2016, the AMF France has created a new division named "Fintech, Innovation, Competitiveness" (the "FIC") dedicated to welcome startups and projects holders and help them navigate the regulatory system, providing them advice in their pre-authorization phase. Building on these numerous meetings, the FIC division assesses the impact of FinTech and more broadly of the digitalization of financial services and analyzes both the opportunities and risks associated with these new business models. Ultimately the FIC division makes some recommendations to adjust where necessary the regulatory framework and supervisory practices.

2. On February 23, 2017, all the Canadian securities regulatory authorities launched the CSA Regulatory Sandbox, an initiative that supports innovative businesses across Canada through its Innovation Function. The Regulatory Sandbox helps in developing an in-depth understanding of new securities-related business models that use technology solutions.

Article 4 Principles for co-operation

1. The Authorities agree to cooperate for the purpose and within the scope of this Co-operation Agreement.

2. This Co-operation Agreement is a statement of intent of the Authorities and accordingly does neither create any enforceable rights nor is it intended to create any binding legal obligations, or to fetter the discretion of the Authorities in any way in the discharge of their functions. This Co-operation Agreement is subject to the domestic laws and Regulations of each Authority and does not modify or supersede any laws or regulatory requirements in force or applicable in France or in any Canadian Authority.

3. This Co-operation Agreement is intended to complement, but not affect or alter the terms and conditions of any other multilateral or bilateral arrangements concluded between the Authorities or between the Authorities and third parties.

4. This Co-operation Agreement is a bilateral arrangement between each Canadian Authority and the AMF France and should not be considered a bilateral agreement between any Canadian Authority.

Article 5 Scope of co-operation

1. Information sharing

The Authorities intend, as appropriate, to exchange information, where appropriate, about:

a) Innovator Businesses;

b) Regulatory and policy issues on Innovative Financial Services;

c) Emerging market trends and developments; and

d) Any other relevant issues on FinTech.

2. Support to Financial Innovators

Each Authority will provide Innovator Businesses originating from the AMF France or from a Canadian Authority with the same level of support that it provides to Innovator Businesses originating from its own jurisdiction. The support offered by the Authorities to Innovator Business may include:

a) A dedicated team and/or a dedicated contact for Innovator Business;

b) Help for Innovator Businesses to understand the Regulations in the relevant Authority's jurisdiction, and how they apply to them;

c) Assistance during the pre-Authorisation application phase to:

i. Discuss the Authorisation application process and any Regulations issues that the Innovator Business has identified; and

ii. Ensure the Innovator Business understands the relevant Authority's Regulations regime and what it means for them.

d) Support during the Authorisation process, including the allocation of Authorisation staff who are knowledgeable about FinTech and financial innovation in their respective markets.

e) A dedicated contact person after an Innovator Business is Authorised as and when circumstances require it.

3. Referral mechanism

a) The Authorities, through their Innovation Functions, will refer to each other Authorised Innovator Businesses that would like to operate in the other's jurisdiction.

b) Referrals will be made in writing, and should include relevant information demonstrating that the Innovator Business seeking to operate in the Receiving Authority's jurisdiction meets the Referring Authority's criteria for support. The criteria for support should include the following:

i. The Innovator Business should offer innovative financial products or services that benefit the consumer, investor and/or the industry;

ii. The Innovator Business should demonstrate that it has conducted sufficient background research on Regulations as it might apply to it; and

c) Following referral, and provided the Innovator Business meets the Criteria for Support, the Receiving Authority's Innovation Function may offer support to the Innovator Business in accordance with Article 5.2. above.

d) The Referring Authority acknowledges that when a Receiving Authority provides assistance to an Innovator Business, the Receiving Authority is not expressing an opinion about whether an Innovator Business will ultimately meet the requirements for Authorisation in its jurisdiction.

Article 6 Confidentiality & Permissible Uses

1. The Authorities confirm that all persons dealing with, or having access to, Confidential Information are bound by the obligation of professional or official secrecy.

2. Information about an Innovator Business included in a referral under paragraph 5.1. should be sent to a Receiving Authority only if the Innovator Business consents to that disclosure in writing and provides such consent to both AMF France and to the Canadian Authority. Such consent can be withdrawn by the Innovator Business at any time.

3. The Authorities agree to use Confidential Information disclosed to it by the other Authority only for the purposes for which the Confidential Information was disclosed.

4. If an Authority intends to use or disclose any Confidential Information provided to it by the other Authority for purposes other than those for which such Confidential Information was provided, the Authority should seek prior written consent from the other Authority, which provided the information.

5. If any Canadian Authority is required by law to disclose any Confidential Information provided to it by the AMF France or if AMF France is required to disclose any information provided to it by any Canadian Authority pursuant to a requirement of law, such Authority should notify the other Authority prior to complying with such a requirement and should assert all appropriate legal exemptions or privileges with respect to such information as may be available.

Article 7 Contact points

To facilitate co-operation under this Co-operation Agreement, each Authority will designate a contact point as specified in Appendix A.

Article 8 Entry into force, amendments and termination

1. This Co-operation Agreement takes effect from the date of execution for all parties, or on the date determined in accordance with each Authority's applicable legislation.

2. This Co-operation Agreement may be amended in writing if all Authorities agree in writing to do so.

3. Any Authority may terminate the Co-operation Agreement by giving 30 days' advance written notice to the other Authorities.

4. In the event of termination, Confidential Information obtained under this Co-operation Agreement should continue to be treated in accordance with Article 6.

Article 9 Review clause

In view of the rapid technological developments in the Fintech environment both in France and Canada and the regulatory changes incurred, the Authorities shall review this agreement within a period of two years following the date of entry into force.

Article 10 Additional Parties to the Agreement

Any Authority may become a party to this Agreement by executing a counterpart hereof together with the AMF France and providing notice to the other signatories which are parties to this Co-operation Agreement.

Executed by the Authorities:

This Co-operation Agreement will be effective from the date of its signing or on the date determined in accordance with each Authority's applicable legislation.

For the AMF France

"Robert Ophele"
Robert Ophele
President

Date

For the AMF Québec

"Louis Morisset"
Louis Morisset
President and CEO

Date

For the Ontario Securities Commission

"Maureen Jensen"
Name: Maureen Jensen
Chair and CEO

Date

For the British Columbia Securities Commission

"Brenda Leong"
Name: Brenda M. Leong
Chair and CEO

Date

For the Alberta Securities Commission

"Stan Magidson"
Name: Stan Magidson
Chair and CEO

Date

For the Manitoba Securities Commission

"Donald Murray"
Name: Donald Murray
Chair

Date:

For the Nova Scotia Securities Commission

"Paul Radford"
Name: Paul Radford
Chair

Date

For the Financial and Consumer Affairs Authority of Saskatchewan

"Roger Sobotkiewicz"
Name: Roger Sobotkiewicz
Chair and CEO

Date

For the Financial and Consumer Services Commission (New Brunswick)

"*Rick Hancox"*
Name: Rick Hancox
CEO

Date:

Appendix A

Designated Innovation Functions Contact Points

For the AMF Québec
Autorité des marchés financiers
To: Director, Fintech and Innovation
800, Square-Victoria, 22e étage
Montréal (Québec) H4Z 1G3
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For the AMF France
Autorité des marchés financiers
Fintech, Innovation and Competiveness
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Nova Scotia Securities Commission
Executive Director
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Tel.: 902 424-7768
Email: nsscexemptions@novascotia.ca

1.1.2 Notice of Amendments to the Commodity Futures Act and the Securities Act – Bill 177

NOTICE OF AMENDMENTS TO THE *COMMODITY FUTURES ACT* AND THE *SECURITIES ACT*

On December 14, 2017, the Government's Bill 177, *Stronger, Fairer Ontario Act (Budget Measures), 2017* received Royal Assent. Amendments to the *Commodity Futures Act* and *Securities Act* are in Bill 177.

An explanation of these amendments is provided in Chapter 9.

Questions may be referred to:

Simon Thompson
Senior Legal Counsel
416-593-8261
sthompson@osc.gov.on.ca

1.2 Notices of Hearing

1.2.1 The Special Committee of the Board of Directors of CanniMed Therapeutics Inc. and Aurora Cannabis Inc. – ss. 104, 127

FILE NO.: 2017-73

IN THE MATTER OF
THE SPECIAL COMMITTEE OF
THE BOARD OF DIRECTORS OF
CANNIMED THERAPEUTICS INC.

AND

IN THE MATTER OF
AURORA CANNABIS INC.

NOTICE OF HEARING
Sections 104 and 127 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Application for a Transactional Proceeding

HEARING DATE AND TIME: December 20, 2017 at 9:00 a.m., or such other date as may be ordered

LOCATION: 20 Queen Street West, 17th Floor, Toronto, Ontario

PURPOSE

The purpose of this proceeding is to consider the Amended Application filed by the Special Committee of the Board of Directors of CanniMed Therapeutics Inc. ("**CanniMed**"), on behalf of CanniMed, dated December 11, 2017 in respect of a request for an order that, along with related relief, Aurora Cannabis Inc., SaskWorks Venture Fund Inc., Apex Investments Limited Partnership, Golden Opportunities Fund Inc., and Vantage Asset Management Inc. are deemed to be joint actors, as defined in Multilateral Instrument 61-101 *Protection of Minority Shareholders in Special Transactions*, and are acting jointly or in concert in connection with the unsolicited take-over bid to acquire all of the issued and outstanding common shares in the capital of CanniMed made by Aurora Cannabis Inc. pursuant to its take-over bid circular dated November 24, 2017.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO ATTEND

IF A PARTY DOES NOT ATTEND, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Secretary's Office in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Bureau du secrétaire par écrit le plut tôt si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 12th day of December, 2017

"Grace Knakowski"
Secretary to the Commission

For more information

Please visit www.osc.gov.on.ca or contact the Registrar at registrar@osc.gov.on.ca.

1.2.2 CanniMed Therapeutics Inc. and Aurora Cannabis Inc. – ss. 104, 127

FILE NO.: 2017-74

IN THE MATTER OF
CANNIMED THERAPEUTICS INC.

AND

IN THE MATTER OF
AURORA CANNABIS INC.

NOTICE OF HEARING
Sections 104 and 127 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Application for Transactional Proceeding

HEARING DATE AND TIME: December 20, 2017 at 9:00 a.m., or such other date as may be ordered

LOCATION: 20 Queen Street West, 17th Floor, Toronto, Ontario

PURPOSE

The purpose of this proceeding is to consider the Amended Application filed by CanniMed Therapeutics Inc. ("**CanniMed**") dated December 11, 2017, in respect of a request for an order that the exemption created by section 2.2(3) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* to the restrictions on purchases during a take-over bid found in section 2.2(1) of NI 62-104 shall not apply to Aurora Cannabis Inc. until (i) March 9, 2018, or (ii) if the Commission grants the relief sought in the Amended Application of the Special Committee of the Board of Directors of CanniMed, File No. 2017-73, then 105 days after the date upon which a take-over bid circular that complies with insider bid rules is delivered to CanniMed's shareholders.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO ATTEND

IF A PARTY DOES NOT ATTEND, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Secretary's Office in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

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Dated at Toronto this 12th day of December, 2017

"Grace Knakowski"
Secretary to the Commission

For more information

Please visit www.osc.gov.on.ca or contact the Registrar at registrar@osc.gov.on.ca.

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 Miles S. Nadal – ss. 127(1), 127(10)

FILE NO.: 2017-77

IN THE MATTER OF
MILES S. NADAL

NOTICE OF HEARING
Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Inter-jurisdictional Enforcement Proceeding

HEARING DATE AND TIME: In writing

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Commission to make the orders requested in the Statement of Allegations filed by Staff of the Commission on December 12, 2017.

Take notice that Staff of the Commission has elected to proceed by way of the expedited procedure for a written hearing provided for by Rule 11(3) of the Commission's *Rules of Procedure and Forms* (2017), 40 OSCB 8988.

Staff must serve on you this Notice of Hearing, the Statement of Allegations, Staff's hearing brief containing all documents Staff relies on, and Staff's written submissions.

You have **21 days** from the date Staff serves these documents on you to file a request for an oral hearing, if you do not want to follow the expedited procedure for a written hearing.

Otherwise, you have **28 days** from the date Staff serves these documents on you to file your hearing brief and written submissions.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO ATTEND

IF A PARTY DOES NOT ATTEND, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Secretary's Office in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Bureau du secrétaire par écrit le plut tôt si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 13th day of December, 2017

"Grace Knakowski"
Secretary to the Commission

For more information

Please visit www.osc.gov.on.ca or contact the Registrar at registrar@osc.gov.on.ca.

IN THE MATTER OF
MILES S. NADAL

STATEMENT OF ALLEGATIONS
(Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990 c S.5)

1. Staff of the Enforcement Branch (**Staff**) of the Ontario Securities Commission (the **Commission**) elect to proceed using the expedited procedure for inter-jurisdictional proceedings as set out in Rule 11(3) of the Commission's *Rules of Procedure*.

A. ORDER SOUGHT

2. Staff request that the Commission make the following inter-jurisdictional enforcement order, pursuant to paragraphs 4 and 5 of subsection 127(10) of the Ontario *Securities Act*, RSO 1990 c S.5 (the **Act**):

   (a) against Miles S. Nadal (**Nadal**) that:

      i. Nadal resign any positions that he holds as a director or officer of any reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act; and

      ii. Nadal be prohibited from becoming or acting as a director or officer of any reporting issuer until May 11, 2022, pursuant to paragraph 8 of subsection 127(1) of the Act.

B. FACTS

Staff make the following allegations of fact:

3. Nadal is subject to an order made by the U.S. Securities and Exchange Commission (the **SEC**) dated May 11, 2017 (the **SEC Order**) that imposes sanctions, conditions, restrictions or requirements upon him.

4. In relation to the SEC proceedings, Nadal submitted an Offer of Settlement (the **Offer of Settlement**), which was accepted by the SEC. In the SEC Order, certain findings were made against Nadal pursuant to the Offer of Settlement (the **Findings**). Without admitting or denying the Findings, Nadal consented to the entry of the SEC Order.

(i) The SEC Proceedings

Background

5. The conduct for which Nadal was sanctioned took place from 2009 through 2014 (the **Material Time**).

6. Nadal was the Chairman of the Board, Chief Executive Officer and President of MDC Partners, Inc. (**MDCA**) from 1986 until July 2015.

7. MDCA is a Canadian corporation headquartered in New York, New York, engaged in the advertising, marketing and communications businesses. The company's common stock is registered under Section 12(b) of the *Securities Exchange Act of 1934* (the **US Exchange Act**) and trades on the NASDAQ National Market under the ticker symbol "MDCA."

Facts – SEC Order

Pursuant to the SEC Order:

8. During the Material Time, Nadal improperly received from MDCA USD$11.285 million worth of perquisites, personal expense reimbursements and other items of value, without disclosure of such items as compensation in MDCA's definitive proxy statements. Items that Nadal received, but were not disclosed, include, but are not limited to, private aircraft usage, cosmetic surgery, yacht-and-sports-car-related expenses, jewelry, cash for tips and gratuities, medical expenses for Nadal, family members and others, charitable donations in Nadal's name, pet care, vacation and personal travel expenses, club memberships, and certain expenses for which supporting documentation or information was incomplete.

9. MDCA's definitive proxy statements for the Material Time disclosed approximately USD$3.87 million worth of perquisites and personal benefits provided to Nadal. The proxy statements disclosed an annual USD$500,000

perquisite allowance; interest benefits received on interest free loans in 2009, 2010, 2011 and 2012; disability, medical, life insurance benefits in 2009 and 2010; and legal fees and the use of company aircraft and apartment in 2014.

10. However, MDCA's definitive proxy statements for the Material Time failed to disclose an annual average of approximately USD$1.88 million worth of additional perquisites and personal benefits provided to Nadal, thereby understating the perquisites and personal benefits portion of Nadal's compensation by an average of almost 300% each year.

11. Nadal solicited proxies for his election as a director and approval of his compensation by using materials that included these deficient executive compensation disclosures. Nadal knew, or was reckless in not knowing, that the proxy statements contained materially false and misleading executive compensation disclosures, and that they omitted, among other things, numerous personal expenses for which Nadal had sought and obtained reimbursement as if such items were proper business expenses. Nadal also improperly received payments from MDCA by submitting unsubstantiated expenses outside of MDCA's expense reimbursement process. In addition, Nadal completed, signed and submitted director and officer questionnaires in which he failed to disclose his perquisites and personal benefits.

12. MDCA incorporated its definitive proxy statements into its annual reports by reference. Nadal signed and certified these annual reports.

13. MDCA filed with the SEC a registration statement, signed by Nadal, which incorporated by reference deficient executive compensation disclosures in MDCA's April 2013 and April 2014 definitive proxy statements, and pursuant to which MDCA and/or Nadal offered and sold debt and/or equity securities.

14. During the Material Time, MDCA incorrectly recorded payments for the benefit of, and reimbursements to, Nadal as business expenses, and not compensation. As a result, its books, records, and accounts did not, in reasonable detail, accurately and fairly reflect its disposition of assets.

15. After receipt of a subpoena from SEC Staff, MDCA launched an internal investigation, which continued after additional SEC Staff inquiries. After the internal investigation was launched, Nadal cooperated with it, agreed to pay back USD$11.285 million worth of perquisites, personal expense reimbursements and other items of value that he improperly received during the Material Time, and resigned from MDCA.

Violations

16. Pursuant to Nadal's Offer of Settlement, and as a result of the conduct described above, the SEC found that:

    (a) Nadal violated Section 10(b) of the US Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

    (b) As a result of the conduct described above, Nadal violated Section 14(a) of the US Exchange Act and Rules 14a-3 and 14a-9 thereunder. Section 14(a) of the US Exchange Act makes it unlawful to solicit any proxy in respect of any security (other than an exempted security) registered pursuant to Section 12 of the US Exchange Act in contravention of such rules and regulations as the SEC may prescribe. Rule 14a-3 prohibits the solicitation of proxies without furnishing proxy statements containing the information specified in Schedule 14A, including executive compensation disclosures pursuant to Item 402 of Regulation S-K. Rule 14a-9 prohibits the use of proxy statements containing materially false or misleading statements or materially misleading omissions.

    (c) Nadal caused MDCA to violate Section 13(a) of the US Exchange Act and Rule 13a-1 thereunder, which require every issuer of a security registered pursuant to Section 12 of the US Exchange Act to file with the SEC, among other things, annual reports as the SEC may require, and Nadal violated Rule 13a-14 under the US Exchange Act, which mandates, among other things, that an issuer's principal executive certify each annual report.

    (d) Nadal caused MDCA to violate Rule 12b-20 under the US Exchange Act, which requires that, in addition to the information expressly required to be included in a statement or report filed with the SEC, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

    (e) Nadal caused MDCA to violate Section 13(b)(2)(A) of the US Exchange Act, which requires reporting companies to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

(f) Nadal violated Section 13(b)(5) of the US Exchange Act, which prohibits any person from knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account described in Section 13(b)(2) of the US Exchange Act.

(g) Nadal violated Rule 13b2-1, which prohibits any person from, directly or indirectly, falsifying or causing to be falsified, any book, record, or account subject to Section 13(b)(2)(A) of the US Exchange Act.

(ii) The SEC Order

17. Under the SEC Order and among other sanctions, conditions, restrictions or requirements imposed on him, Nadal is prohibited for a period of five (5) years from the date of the SEC Order from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the US Exchange Act, or that is required to file reports pursuant to Section 15(d) of the US Exchange Act.

C. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

18. In the Offer of Settlement, Nadal agreed to be made subject to an order of the SEC imposing sanctions, conditions, restrictions or requirements upon him.

19. Nadal is subject to an order of the SEC imposing sanctions, conditions, restrictions or requirements.

20. Pursuant to paragraphs 4 and 5, respectively, of subsection 127(10) of the Act, an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on a person or company, or an agreement with a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that a person or company is to be made subject to sanctions, conditions, restrictions or requirements may form the basis for an order in the public interest made under subsection 127(1) of the Act.

21. Nadal is currently a shareholder of three companies registered in Ontario. Nadal was previously a director, and registered as an officer and/or dealing representative, of two of these companies.

22. Nadal was also previously a director of various other companies registered in various capacities with the Commission.

23. Staff allege that it is in the public interest to make an order against Nadal.

24. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

DATED at Toronto this 12th day of December, 2017.

Raphael Eghan
Litigation Counsel
Enforcement Branch
LSUC #58887N

Tel: (416) 597-7205
Fax: (416) 593-8321
Email: reghan@osc.gov.on.ca

1.3.2 Assante Capital Management Ltd. and Assante Financial Management Ltd. – s. 127

FILE NO.: 2017-72

IN THE MATTER OF
ASSANTE CAPITAL MANAGEMENT LTD. and
ASSANTE FINANCIAL MANAGEMENT LTD.

NOTICE OF HEARING
Section 127 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: December 21, 2017 at 9:00 a.m.

LOCATION: 20 Queen Street West, 17th Floor, Toronto, Ontario

PURPOSE

The purpose of this hearing is to consider whether it is in the public interest for the Commission to approve the Settlement Agreement dated December 18, 2017, on a no-contest basis, between Staff of the Commission and Assante Capital Management Ltd. and Assante Financial Management Ltd. in respect of the Statement of Allegations filed by Staff of the Commission dated December 18, 2017.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO ATTEND

IF A PARTY DOES NOT ATTEND, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Secretary's Office in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Bureau du secrétaire par écrit le plut tôt si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 18th day of December 2017.

"Grace Knakowski"
Secretary to the Commission

For more information

Please visit www.osc.gov.on.ca or contact the Registrar at registrar@osc.gov.on.ca.

IN THE MATTER OF
ASSANTE CAPITAL MANAGEMENT LTD. and
ASSANTE FINANCIAL MANAGEMENT LTD.

STATEMENT OF ALLEGATIONS
(Section 127 of the *Securities Act*, R.S.O. 1990, c. S.5)

A. ORDER SOUGHT

Staff of the Enforcement Branch (**Commission Staff**) of the Ontario Securities Commission (the **Commission**) requests that the Commission make an order pursuant to section 127 of the *Securities Act* to approve the settlement agreement dated December 18, 2017 (the **Settlement Agreement**), on a no-contest basis, between Commission Staff and Assante Capital Management Ltd. (**ACML**) and Assante Financial Management Ltd. (**AFML**) (collectively, the **Assante Dealers**).

B. FACTS

Commission Staff make the following allegations of fact:

(a) THE RESPONDENTS

1. ACML is a corporation incorporated pursuant to the laws of Canada. ACML is a member of the Investment Industry Regulatory Organization of Canada and is registered with the Commission as an investment dealer.

2. AFML is a corporation incorporated pursuant to the laws of Ontario. AFML is a member of the Mutual Fund Dealers Association of Canada and is registered with the Commission as a mutual fund dealer and an exempt market dealer.

3. Each of the Assante Dealers is a subsidiary of Assante Wealth Management (Canada) Ltd. (**AWMCL**). AWMCL is a subsidiary of CII Investments Inc. (**CIII**), the manager of various mutual funds.

(b) BACKGROUND

4. Commencing in March 2015, the Assante Dealers self-reported to Commission Staff findings from a review of their internal practices and procedures which commenced a process that led to the discovery and reporting of inadequacies in the Assante Dealers' systems of controls and supervision which formed part of their compliance systems, resulting in certain eligible clients of the Assante Dealers invested in mutual funds managed by CIII not being advised that they qualified for a lower management expense ratio (**MER**) series of those mutual funds (the **MER Control and Supervision Inadequacy**). As a result, these clients indirectly paid excess fees that were not detected or corrected by the Assante Dealers in a timely manner.

5. Commission Staff do not allege, and have found no evidence of dishonest conduct by the Assante Dealers.

6. In connection with the reporting of the MER Control and Supervision Inadequacy, the Assante Dealers formulated an intention to pay appropriate compensation to clients and former clients.

7. The Assante Dealers took corrective action by implementing CIII's preferred pricing program in May 2017 which ensures that a lower MER is automatically applied to a client's CIII holdings as soon as the client's assets meet various asset thresholds.

(c) THE ASSANTE DEALERS' CONDUCT

8. Beginning in August 2011, certain clients of the Assante Dealers may not have been advised of their eligibility to enroll in CIII's private investment management program (the **PIM Program**), through which they could have opened a PIM Program account in order to invest in the PIM series of a particular CIII mutual fund which had a lower MER as compared to such clients' investment in the standard series of the same fund.

C. BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

Commission Staff allege the following breaches of Ontario securities law and conduct contrary to the public interest:

1. With respect to the MER Control and Supervision Inadequacy, the Assante Dealers failed to establish, maintain and apply procedures to establish controls and supervision:

a. sufficient to provide reasonable assurance that the Assante Dealers, and each individual acting on behalf of the Assante Dealers, complied with securities legislation, including the requirement to deal fairly with clients with regard to fees; and

b. that were reasonably likely to identify the non-compliance described in a. above at an early stage and that would have allowed the Assante Dealers to correct the non-compliant conduct in a timely manner.

2. As a result, the MER Control and Supervision Inadequacy constituted a breach of section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and was contrary to the public interest.

DATED at Toronto, December 18, 2017

Michelle Vaillancourt
Senior Litigation Counsel
Enforcement Branch
Tel: (416) 593-3654
Fax: (416) 593-8321

Lawyer for Staff of the Ontario Securities Commission

1.5 Notices from the Office of the Secretary

1.5.1 The Special Committee of the Board of Directors of CanniMed Therapeutics Inc. and Aurora Cannabis Inc.

FOR IMMEDIATE RELEASE
December 12, 2017

THE SPECIAL COMMITTEE OF
THE BOARD OF DIRECTORS OF
CANNIMED THERAPEUTICS INC. and
AURORA CANNABIS INC.,
File No. 2017-73

TORONTO – On December 12, 2017, the Commission issued a Notice of Hearing pursuant to Sections 104 and 127 of the *Securities Act*, RSO 1990, c S.5 to consider the Amended Application filed by the Special Committee of the Board of Directors of CanniMed Therapeutics Inc. ("**CanniMed**"), on behalf of CanniMed, dated December 11, 2017 in respect of a request for an order that, along with related relief, Aurora Cannabis Inc., SaskWorks Venture Fund Inc., Apex Investments Limited Partnership, Golden Opportunities Fund Inc., and Vantage Asset Management Inc. are deemed to be joint actors, as defined in Multilateral Instrument 61-101 *Protection of Minority Shareholders in Special Transactions*, and are acting jointly or in concert in connection with the unsolicited take-over bid to acquire all of the issued and outstanding common shares in the capital of CanniMed made by Aurora Cannabis Inc. pursuant to its take-over bid circular dated November 24, 2017.

The hearing will be held on December 20, 2017 at 9:00 a.m. at 20 Queen Street West, 17th Floor, Toronto, Ontario.

A copy of the Notice of Hearing dated December 12, 2017 and the Amended Application dated December 11, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.2 CanniMed Therapeutics Inc. and Aurora Cannabis Inc.

FOR IMMEDIATE RELEASE
December 12, 2017

CANNIMED THERAPEUTICS INC. and
AURORA CANNABIS INC.,
File No. 2017-74

TORONTO – On December 12, 2017, the Commission issued a Notice of Hearing pursuant to Sections 104 and 127 of the *Securities Act*, RSO 1990, c S.5 to consider the Amended Application filed by CanniMed Therapeutics Inc. ("**CanniMed**") dated December 11, 2017, in respect of a request for an order that the exemption created by section 2.2(3) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* to the restrictions on purchases during a take-over bid found in section 2.2(1) of NI 62-104 shall not apply to Aurora Cannabis Inc. until (i) March 9, 2018, or (ii) if the Commission grants the relief sought in the Amended Application of the Special Committee of the Board of Directors of CanniMed, File No. 2017-73, then 105 days after the date upon which a take-over bid circular that complies with insider bid rules is delivered to CanniMed's shareholders.

The hearing will be held on December 20, 2017 at 9:00 a.m. at 20 Queen Street West, 17th Floor, Toronto, Ontario.

A copy of the Notice of Hearing dated December 12, 2017 and the Amended Application dated December 11, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.3 Aurora Cannabis Inc., CanniMed Therapeutics Inc. and The Special Committee of the Board of Directors of CanniMed Therapeutics Inc.

FOR IMMEDIATE RELEASE
December 13, 2017

AURORA CANNABIS INC. and
CANNIMED THERAPEUTICS INC. and
THE SPECIAL COMMITTEE OF
THE BOARD OF DIRECTORS OF
CANNIMED THERAPEUTICS INC.,
FILE Nos. 2017-71, 2017-73, 2017-74

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

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

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

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OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.4 Miles S. Nadal

FOR IMMEDIATE RELEASE
December 14, 2017

MILES S. NADAL,
File No. 2017-77

TORONTO – The Office of the Secretary issued a Notice of Hearing pursuant to Subsections 127(1) and 127(10) of the *Securities Act*.

A copy of the Notice of Hearing dated December 13, 2017 and Statement of Allegations of Staff of the Ontario Securities Commission dated December 12, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.5 Dennis L. Meharchand and Valt.X Holdings Inc.

FOR IMMEDIATE RELEASE
December 14, 2017

DENNIS L. MEHARCHAND and
VALT.X HOLDINGS INC.

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

A copy of the Order dated December 14, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.6 Dennis Wing

FOR IMMEDIATE RELEASE
December 14, 2017

DENNIS WING

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

A copy of the Order dated December 14, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.7 Omega Securities Inc.

FOR IMMEDIATE RELEASE
December 15, 2017

OMEGA SECURITIES INC.,
File No. 2017-64

TORONTO – The Commission issued its Reasons on Application for a Temporary Order in the above named matter.

A copy of the Reasons on Application for a Temporary Order dated December 14, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.8 Sino-Forest Corporation et al.

FOR IMMEDIATE RELEASE
December 18, 2017

SINO-FOREST CORPORATION,
ALLEN CHAN,
ALBERT IP,
ALFRED C.T. HUNG,
GEORGE HO,
SIMON YEUNG and
DAVID HORSLEY

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

A copy of the Order dated December 18, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.9 Assante Capital Management Ltd. and Assante Financial Management Ltd.

FOR IMMEDIATE RELEASE
December 18, 2017

ASSANTE CAPITAL MANAGEMENT LTD. and
ASSANTE FINANCIAL MANAGEMENT LTD.,
FILE No. 2017-72

TORONTO – The Office of the Secretary issued a Notice of Hearing to consider whether it is in the public interest to approve the Settlement Agreement dated December 18, 2017, on a no-contest basis, between Staff of the Commission and Assante Capital Management Ltd. and Assante Financial Management Ltd.

The hearing pursuant to Section 127 of the *Securities Act*, will be held at the offices of the Commission located at 20 Queen Street West, 17th Floor, on December 21, 2017 at 9:00 a.m.

A copy of the Notice of Hearing dated December 18, 2017 and Statement of Allegations of Staff of the Ontario Securities Commission dated December 18, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.10 Dennis L. Meharchand and Valt.X Holdings Inc.

FOR IMMEDIATE RELEASE
December 19, 2017

DENNIS L. MEHARCHAND and
VALT.X HOLDINGS INC.

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

A copy of the Order dated December 18, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.11 Techocan International Co. Ltd. and Haiyan (Helen) Gao Jordan

FOR IMMEDIATE RELEASE
December 19, 2017

TECHOCAN INTERNATIONAL CO. LTD. and HAIYAN (HELEN) GAO JORDAN

TORONTO – The Commission issued its Reasons and Decision on an Application in the above named matter.

A copy of the Reasons and Decision on an Application dated December 18, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.12 TCM Investments Ltd. et al.

FOR IMMEDIATE RELEASE
December 19, 2017

TCM INVESTMENTS LTD.
carrying on business as OPTIONRALLY,
LFG INVESTMENTS LTD.,
AD PARTNERS SOLUTIONS LTD. and
INTERCAPITAL SM LTD.

TORONTO – The Commission issued its Reasons and Decision on Sanctions and Costs and an Order in the above named matter.

A copy of the Reasons and Decision on Sanctions and Costs and the Order dated December 18, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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OSC Contact Centre
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1-877-785-1555 (Toll Free)

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Mackenzie Financial Corporation and Quadrus Trimark Balanced Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund merger – approval required because merger does not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 – the fundamental investment objectives of the terminating fund and the continuing fund are not substantially similar – merger not a "qualifying exchange" or a tax-deferred transaction under the Income Tax Act (Canada) – securityholders of terminating fund provided with timely and adequate disclosure regarding the merger.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 5.5(1)(b), 19.1.

December 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
MACKENZIE FINANCIAL CORPORATION
(the Manager)

AND

IN THE MATTER OF
QUADRUS TRIMARK BALANCED FUND
(the Terminating Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Manager on behalf of the Terminating Fund for approval pursuant to subsection 5.5(1)(b) of National Instrument 81-102 – *Investment Funds* (**NI 81-102**) in connection with the proposed merger (the **Merger**) of the Terminating Fund into Mackenzie Strategic Income Fund (the "**Continuing Fund**") (the "**Requested Relief**").

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

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

(b) the Manager 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, Québec, New

Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and Yukon (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in NI 81-102, National Instrument 14-101 *Definitions*, and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Manager is a corporation amalgamated under the laws of Ontario with its head office in Toronto, Ontario.

2. The Manager is registered as an investment fund manager, portfolio manager, exempt market dealer and commodity trading manager in the Province of Ontario. The Manager is also registered as a portfolio manager and exempt market dealer in all other Canadian provinces and territories and as an investment fund manager in the Provinces of Newfoundland and Labrador and Québec.

3. The Manager is the manager and portfolio manager of the Terminating Fund and the Continuing Fund.

4. The Terminating Fund was established as a unit trust and currently qualifies as a mutual fund trust under the *Income Tax Act* (Canada) (the "**Tax Act**") but may no longer qualify as a mutual fund trust on the date of the Merger, as it may have fewer than 150 investors by that time.

5. The Continuing Fund was established as a unit trust and qualifies as a mutual fund trust under the Tax Act.

6. Quadrus Investment Services Ltd. is the principal distributor of the Terminating Fund and of the Quadrus series securities of the Continuing Fund.

7. Securities of the Continuing Fund are currently qualified for sale in each of the Jurisdictions under the simplified prospectus, annual information form and fund facts each dated June 28, 2017, as amended.

8. Securities of the Terminating Fund ceased to be offered for sale in 2007. As a result, it does not file a renewal simplified prospectus each year. Instead it files an annual information form pursuant to Part 9 of National Instrument 81-106 – *Investment Fund Continuous Disclosure* (**NI 81-106**). The Terminating Fund filed an annual information form on June 29, 2017.

9. The only issued and outstanding series of the Terminating Fund is Quadrus series securities.

10. Neither the Manager nor the Funds are in default of securities legislation in any Jurisdiction.

11. Other than circumstances in which the securities regulatory authority of a province or territory of Canada has expressly exempted a Fund therefrom, the Funds follow the standard investment restrictions and practices established under NI 81-102.

12. The Manager has concluded that pre-approval for the Merger under section 5.6 of NI 81-102 is not available because the investment objectives of the Terminating Fund may not be considered by a reasonable person to be "substantially similar" to the investment objectives of the Continuing Fund. In addition, there is a possibility that the Merger may not be completed as a "qualifying exchange" within the meaning of section 132.2 of the Tax Act or a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act because the Terminating Fund may no longer qualify as a mutual fund trust on the date of the Merger, as it may have fewer than 150 investors by that time.

13. The Manager is therefore asking for the Requested Relief pursuant to subsection 5.5(1)(b) of NI 81-102. Except as noted herein, the Merger will comply with all of the other criteria for pre-approved reorganizations and transfers set out in subsection 5.6(1) of NI 81-102.

14. Securityholders of the Terminating Fund will be asked to approve the Merger at a special meeting of securityholders to be held on January 4, 2018.

13. Subject to Terminating Fund securityholder approval and regulatory approval, the Manager intends to effect the Merger on January 19, 2018. If effected, the Merger will result in securityholders of the Terminating Fund becoming securityholders of the same series of the Continuing Fund.

14. The Merger does not require approval of investors of the Continuing Fund as the Manager has determined that the Merger does not constitute a material change to the Continuing Fund.

15. The Continuing Fund has the same valuation procedures as the Terminating Fund.

16. No sales charges will be payable in connection with the acquisition by the Continuing Fund of the investment portfolio of the Terminating Fund.

17. Securityholders of the Terminating Fund will continue to have the right to redeem securities of the Terminating Fund or exchange such securities for securities of any other mutual fund offered under the Quadrus Group of Funds simplified prospectus at any time up to the close of business on the effective date of the Merger.

18. In accordance with NI 81-106, a press release announcing the proposed Merger was issued and filed via SEDAR on September 20, 2017. A material change report with respect to the proposed Merger was filed on September 22, 2017, in accordance with NI 81-106.

19. Pursuant to exemptive relief obtained by the Manager, dated October 21, 2016, the Manager will be following the Notice-and-Access procedure. A Notice-and-Access letter, a form of proxy in connection with the special meeting of securityholders as well as the most recent fund facts for the Quadrus series of the Continuing Fund were mailed to securityholders of the Terminating Funds on November 30, 2017 and were filed on SEDAR. The Notice-and-Access letter, management information circular and form of proxy (the "**Meeting Materials**") will be posted on the website of the Quadrus Group of Funds at www.quadrusgroupoffunds.com as well as on SEDAR.

20. The Meeting Materials describe all relevant facts concerning the Merger, including the investment objectives, strategies and fee structure of the Terminating Fund and the Continuing Fund, the tax implications and other consequences of the Merger, as well as the IRC's recommendation of the Merger, so that securityholders of the Terminating Fund may consider this information before voting on the Merger. The Meeting Materials will also describe the various ways in which securityholders can obtain a copy of the simplified prospectus, annual information form and fund facts for the Continuing Fund, and the most recent interim and annual financial statements and management reports of fund performance.

21. Following the Merger, all optional plans which were established with respect to the Terminating Fund will be re-established in comparable plans with respect to the Continuing Fund unless securityholders advise otherwise.

22. The Manager will pay for the costs of the proposed Merger. These costs consist mainly of brokerage charges associated with the trades that occur both before and after the date of the proposed Merger and legal, proxy solicitation, printing, mailing and regulatory fees. There are no charges payable by investors in the Terminating Fund who acquire securities of the Continuing Fund as a result of the Merger.

23. The Terminating Fund will be wound up as soon as reasonably possible following the Merger.

24. As required by National Instrument 81-107 *Independent Review Committee for Investment Funds*, an Independent Review Committee (the "**IRC**") was appointed for the Funds. The Manager presented the potential conflict of interest matters related to the proposed Merger to the IRC for a recommendation. On September 21, 2017, the IRC reviewed the potential conflict of interest matters related to the proposed Merger and provided its positive recommendation for the Merger, after determining that the proposed Merger, if implemented, would achieve a fair and reasonable result for the Terminating Fund.

25. The Merger will benefit securityholders of the Terminating Fund in the following ways:

- The Terminating Fund has been closed to new investment since 2007. It currently has approximately $1.7 million in assets, which is not an optimal amount to allow the portfolio managers to effectively and efficiently invest the Terminating Fund's assets to achieve its investment objectives.

- Like the Terminating Fund, the Continuing Fund is a balanced fund and it has a similar investment mandate to the Terminating Fund. However, the Continuing Fund currently has approximately $1.8 billion in assets, which allows the Continuing Fund's portfolio managers to achieve considerable efficiencies and flexibility.

- The Continuing Fund has generally demonstrated better performance than the Terminating Fund with a similar level of risk.

- The Continuing Fund is available for purchase, whereas the Terminating Fund is not.

- As a result of the Merger, holders of the corresponding series of the Continuing Fund will benefit from lower management fees, while the administration fees will remain the same.

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted.

"Vera Nunes"
Manager, Investment Funds Branch
Ontario Securities Commission

2.1.2 Questrade Wealth Management Inc. et al.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of change of manager of a mutual fund, and a mutual fund merger – merger approval required because merger does not meet the criteria for per-approval – continuing fund has different investment objectives than terminating fund – merger not a "qualifying exchange" or a tax-deferred transaction under the Income Tax Act – manager of continuing fund is not an affiliate of the manager of the terminating funds – securityholders provided with timely and adequate disclosure regarding the merger – change of manager is not detrimental to unitholders or contrary to the public interest.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(a), 5.5(1)(b), 5.5(3), 5.6, 5.7, 19.1.

November 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
QUESTRADE WEALTH MANAGEMENT INC.
(Questrade or the Filer)

AND

IN THE MATTER OF
QUESTRADE RUSSELL US MIDCAP GROWTH INDEX ETF HEDGED TO CAD,
QUESTRADE RUSSELL US MIDCAP VALUE INDEX ETF HEDGED TO CAD,
QUESTRADE RUSSELL 1000 EQUAL WEIGHT US TECHNOLOGY INDEX ETF HEDGED TO CAD,
QUESTRADE RUSSELL 1000 EQUAL WEIGHT US INDUSTRIALS INDEX ETF HEDGED TO CAD,
QUESTRADE RUSSELL 1000 EQUAL WEIGHT US HEALTH CARE INDEX ETF HEDGED TO CAD,
QUESTRADE RUSSELL 1000 EQUAL WEIGHT US CONSUMER DISCRETIONARY INDEX ETF HEDGED TO CAD
AND QUESTRADE FIXED INCOME CORE PLUS ETF
(the Merging Funds)

AND

QUESTRADE GLOBAL TOTAL EQUITY ETF
(together with the Merging Funds, the Questrade ETFs)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the Questrade ETFs, for a decision under the securities legislation of the Jurisdiction (the **Legislation**) approving:

a) the mergers (each a **Merger** and collectively, the **Mergers**) of the Merging Funds into certain exchange traded mutual funds (the **Continuing Funds**) managed by WisdomTree Asset Management Canada, Inc. (**WisdomTree Canada**) under section 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**); and

b) the change of manager of Questrade Global Total Equity ETF from Questrade to WisdomTree Canada (the **Change in Manager**, and together with the Mergers, the **Requested Approval**) under section 5.5(1)(a) of NI 81-102.

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions* (**NI 14-101**), MI 11-102 and NI 81-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

Questrade

1. The Filer is a corporation organized under the laws of the Province of Ontario, with its head office located in Toronto, Ontario. The Filer is a wholly-owned subsidiary of Questrade Financial Group.

2. The Filer is registered as an investment fund manager, exempt market dealer and restricted portfolio manager in the Jurisdictions, and is not in default of applicable securities legislation in any of the Jurisdictions.

3. The Filer is the trustee, manager and portfolio manager of the Questrade ETFs. Each of the Questrade ETFs is an exchange traded mutual fund established under the laws of the Province of Ontario.

4. The Filer's primary business is to act as investment fund manager for the Questrade ETFs and to act as portfolio manager in connection with an online digital advice platform known as Portfolio IQ.

Questrade ETFs

5. Questrade Russell US Midcap Growth Index ETF Hedged to CAD, Questrade Russell US Midcap Value Index ETF Hedged to CAD, Questrade Russell 1000 Equal Weight US Technology Index ETF Hedged to CAD, Questrade Russell 1000 Equal Weight US Industrials Index ETF Hedged to CAD, Questrade Russell 1000 Equal Weight US Health Care Index ETF Hedged to CAD and Questrade Russell 1000 Equal Weight US Consumer Discretionary Index ETF Hedged to CAD (collectively, the **Questrade Index ETFs**) are exchange traded mutual funds established under the laws of the Province of Ontario that seek to replicate the performance of a specified market index.

6. Questrade Fixed Income Core Plus ETF and Questrade Global Total Equity ETF (together, the **Questrade Active ETFs**) are actively managed exchange traded mutual funds established under the laws of the Province of Ontario. The Filer has appointed Jarislowsky, Fraser Limited as sub-advisor for Questrade Fixed Income Core Plus ETF and One Capital Management, LLC (**One Capital**) as sub-advisor for Questrade Global Total Equity ETF.

7. Securities of the Questrade Index ETFs are distributed in each of the Jurisdictions under a long form prospectus and ETF summary documents each dated February 8, 2017, as amended by amendment no. 1 dated July 31, 2017 and amendment no. 2 dated October 12, 2017, prepared in accordance with the requirements of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) and NI 81-102, as applicable.

8. Securities of the Questrade Active ETFs are distributed in each of the Jurisdictions under a long form prospectus and ETF summary documents each dated August 8, 2017, as amended by amendment no. 1 dated October 12, 2017, prepared in accordance with the requirements of NI 41-101 and NI 81-102, as applicable.

9. Each Questrade ETF is a reporting issuer under the applicable securities legislation of each of the Jurisdictions.

10. The Questrade ETFs are subject to, among other laws and regulations, NI 81-102, National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) and National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**).

11. The Questrade ETFs are not in default of applicable securities legislation in any of the Jurisdictions.

12. CIBC Mellon Trust Company is the custodian of the Questrade ETFs.

WisdomTree Canada

13. WisdomTree Canada is a corporation incorporated under the laws of the Province of Ontario, with its head office located in Toronto, Ontario. WisdomTree Canada is a privately owned company and a wholly-owned subsidiary of WisdomTree Investments, Inc., a U.S. public company.

14. WisdomTree Canada is registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador, and as an exempt market dealer in each of the provinces of Canada, and is not in default of applicable securities legislation in any of the Jurisdictions.

15. WisdomTree Canada is the trustee and manager of the Continuing Funds identified in paragraph 24 below.

16. WisdomTree Canada's primary business is to act as investment fund manager for the WisdomTree family of exchange traded funds in Canada, all of which are listed on the Toronto Stock Exchange (**TSX**) as of the date hereof.

Continuing Funds

17. Each of the Continuing Funds is an exchange traded mutual fund established under the laws of the Province of Ontario.

18. Securities of the Continuing Funds are distributed in each of the Jurisdictions under a long form prospectus dated June 14, 2017, as amended by amendment no. 1 dated July 26, 2017 and ETF summary documents each dated June 14, 2017, as they may be amended from time to time, prepared in accordance with the requirements of NI 41-101 and NI 81-102, as applicable.

19. Each Continuing Fund is a reporting issuer under the applicable securities legislation of each of the Jurisdictions.

20. The Continuing Funds are subject to, among other laws and regulations, NI 81-102, NI 81-106 and NI 81-107.

21. The Continuing Funds are not in default of applicable securities legislation in any of the Jurisdictions.

22. Mellon Capital Management Corporation (**Mellon Capital**) provides investment advisory services to the Continuing Funds pursuant to the terms of an investment advisory agreement (the **Investment Advisory Agreement**) between WisdomTree Canada, in its own capacity and in its capacity as manager of the Continuing Funds, and Mellon Capital, as amended. Pursuant to the Investment Advisory Agreement, Mellon Capital manages the assets held by the Continuing Funds in accordance with each Continuing Fund's investment objectives and investment strategies and subject to the Continuing Fund's investment restrictions.

23. State Street Trust Company Canada is the custodian of the Continuing Funds.

Proposed Transaction

24. In a press release issued on and material change report filed on July 27, 2017, Questrade announced that, among other things, WisdomTree Canada agreed to acquire the assets of the Questrade ETFs, whether by effecting a merger of a Questrade ETF into an existing WisdomTree ETF, or by becoming the successor manager to an existing Questrade ETF.

25. The Proposed Transaction is expected to be completed before the end of November, 2017 (**Closing**), subject to receiving all necessary unitholder, regulatory and other approvals.

26. Pursuant to the Proposed Transaction, WisdomTree Canada will become the manager and trustee of Questrade Global Total Equity ETF, and each Merging Fund will be merged into the applicable Continuing Fund as follows:

Merging Funds (managed by Questrade)	Continuing Funds (managed by WisdomTree Canada)
Questrade Russell US Midcap Growth Index ETF Hedged to CAD – net asset value as at August 25, 2017: $7,626,025,04 Questrade Russell US Midcap Value Index ETF Hedged to CAD (net asset value as at August 25, 2017: $7,646,359.03)	WisdomTree U.S. MidCap Dividend Index ETF – new fund launched on September 21, 2017
Questrade Russell 1000 Equal Weight US Technology Index ETF Hedged to CAD – net asset value as at August 25, 2017: $5,243,459.65 Questrade Russell 1000 Equal Weight US Industrials Index ETF Hedged to CAD – net asset value as at August 25, 2017: $5,734,007.13 Questrade Russell 1000 Equal Weight US Health Care Index ETF Hedged to CAD – net asset value as at August 25, 2017: $1,086,083.53 Questrade Russell 1000 Equal Weight US Consumer Discretionary Index ETF Hedged to CAD – net asset value as at August 25, 2017: $986,044.69	WisdomTree U.S. Quality Dividend Growth Index ETF – net asset value as at August 25, 2017: $7,965,936
Questrade Fixed Income Core Plus ETF – net asset value as at August 25, 2017: $26,838,110.80	WisdomTree Yield Enhanced Canada Aggregate Bond Index ETF – net asset value as at August 25, 2017: $9,766,468.01

The following changes will result from the Mergers into the Continuing Funds and Questrade ETF unitholders will experience the following changes:

Merging Funds (managed by Questrade)	Continuing Funds (managed by WisdomTree Canada)	Summary of Changes Relevant to Questrade ETF Unitholders Resulting from the Mergers
Questrade Russell US Midcap Growth Index ETF Hedged to CAD Questrade Russell US Midcap Value Index ETF Hedged to CAD	WisdomTree U.S. MidCap Dividend Index ETF	• Change in manager and trustee to WisdomTree Canada • Change in investment advisor to Mellon Capital Management Corporation • Change in custodian to State Street Trust Company Canada • Change in investment objectives • Change of auditors to Ernst & Young LLP • change in management fee from 0.35% to 0.38%

Merging Funds (managed by Questrade)	Continuing Funds (managed by WisdomTree Canada)	Summary of Changes Relevant to Questrade ETF Unitholders Resulting from the Mergers
Questrade Russell 1000 Equal Weight US Technology Index ETF Hedged to CAD Questrade Russell 1000 Equal Weight US Industrials Index ETF Hedged to CAD Questrade Russell 1000 Equal Weight US Health Care Index ETF Hedged to CAD Questrade Russell 1000 Equal Weight US Consumer Discretionary Index ETF Hedged to CAD	WisdomTree U.S. Quality Dividend Growth Index ETF	• Change in manager and trustee to WisdomTree Canada • Change in investment advisor to Mellon Capital Management Corporation • Change in custodian to State Street Trust Company Canada • Change in investment objectives • Change of auditors to Ernst & Young LLP • Change in management fee from 0.25% to 0.38%
Questrade Fixed Income Core Plus ETF	WisdomTree Yield Enhanced Canada Aggregate Bond Index ETF	• Change in manager and trustee to WisdomTree Canada • Change in investment advisor to Mellon Capital Management Corporation from Jarislowsky, Fraser Limited as investment sub-advisor • Change in custodian to State Street Trust Company Canada • Change in investment objectives • Change of auditors to Ernst & Young LLP • Change in management fee from 0.50% to 0.18%

27. Under the Mergers and/or the Change in Manager, as applicable, the manager and trustee of each Merging Fund and Questrade Global Total Equity ETF will change from Questrade to WisdomTree Canada.

28. As a result of the Mergers, the portfolio manager of the applicable Questrade ETFs will change from Questrade to Mellon Capital, and Jarislowsky Fraser Limited will no longer act as sub-advisor of Questrade Fixed Income Core Plus ETF.

29. As a result of the Change in Manager, all material agreements regarding the administration of the Questrade ETFs will either be amended and restated by WisdomTree Canada or be terminated and WisdomTree Canada will enter into new agreements or enter into an amendment to an existing agreement with the relevant service provider, as required. Subject to obtaining any necessary approvals, WisdomTree Canada will become the successor trustee and investment fund manager of the Questrade Global Total Equity ETF. State Street Trust Company will be appointed as replacement custodian of the Questrade Global Total Equity ETF. It is expected that One Capital will be the investment advisor of the Questrade Global Total Equity ETF.

30. The Questrade ETFs' Independent Review Committee (the **IRC**) has reviewed the conflicts of interests matters associated with the proposed Mergers and Change in Manager, including the process to be followed in connection with such Mergers and Change in Manager, and after reasonable inquiry has advised Questrade that, in its determination, if implemented, the resolutions achieve a fair and reasonable result for each of the Questrade ETFs. As Anthony. L. Cox is a member of the IRC of the Questrade ETFs and a member of the IRC of the Continuing Funds managed by WisdomTree Canada, Mr. Cox recused himself from participating in the discussions regarding the proposed Mergers and Change in Manager.

31. WisdomTree Canada's IRC has reviewed the conflict of interest matters related to the proposed Mergers and after reasonable inquiry has provided WisdomTree Canada with a positive recommendation having determined that each of the Mergers, if implemented, achieves a fair and reasonable result for each of the Continuing Funds managed by WisdomTree Canada.

32. Upon completion of the Mergers and the Change in Manager, the individuals that comprise the IRC of the Merging Funds and Questrade Global Total Equity ETF will cease to be members of such IRC by operation of subsections 3.10(1)(a) and (b) of NI 81-107. Immediately following completion of the Change in Manager, WisdomTree Canada has confirmed that the new members of the Questrade Global Total Equity ETF's IRC will be the same individuals that currently comprise the IRC for the Continuing Funds, namely: Karen Fisher (Chair), Gerry O'Connor and Anthony L. Cox.

Additional Information Regarding the Proposed Transaction

33. In addition to the press release mentioned above and the corresponding material change reports, which were issued and filed on SEDAR, investors in the Questrade ETFs have been further notified of the Proposed Transaction with WisdomTree Canada through (i) an amendment to the final prospectus of the Merging Funds (except for Questrade Fixed Income Core Plus), which was filed on SEDAR on July 31, 2017 and (ii) the final prospectus of Questrade Fixed Income Core Plus ETF and Questrade Global Total Equity ETF, which was filed on SEDAR on August 11, 2017.

34. Pursuant to NI 81-102, special meetings of the unitholders of the Questrade ETFs will be held on November 10, 2017, or an adjournment thereof (the **Meetings**). At the Meetings, unitholders of the Questrade ETFs will be asked to approve the Mergers and/or the Change in Manager, as applicable.

35. The Notice-and-Access Document and forms of proxy in respect of the Meetings (the **Meeting Materials**) describing the Mergers and the Change in Manager were sent to unitholders of the Questrade ETFs on October 11, 2017 and copies thereof were filed on SEDAR in accordance with applicable securities legislation, and exemptive relief obtained by Questrade on November 10, 2016 permitting the Questrade ETFs to use Notice-and-Access to send proxy-related materials to beneficial unitholders.

36. The Meeting Materials contain a detailed description of the proposed Mergers and the Change in Manager, the ETF summary documents for the Continuing Funds, information about the Merging Funds and Continuing Funds and income tax considerations for unitholders of the Questrade ETFs. The Meeting Materials also describe the various ways in which investors can obtain a copy of the prospectus of the Continuing Funds, as well as the most recent interim and annual financial statements and management reports of fund performance for the Continuing Funds.

37. The Meeting Materials contain sufficient information regarding the business, management and operations of WisdomTree Canada (including details of its officers and directors), the Continuing Funds, and Questrade Global Total Equity ETF, and all information necessary to allow unitholders to make an informed decision about the Mergers and the Change in Manager. All other required information and documents necessary to comply with applicable proxy solicitation requirements of securities legislation, including the ETF summary documents for the Continuing Funds, for the Meetings have also been mailed to applicable unitholders of the Questrade ETFs.

38. The Filer, WisdomTree Canada and their respective affiliates are not related parties. Except pursuant to the Proposed Transaction and certain commercial relationships relating to the marketing of the Continuing Funds and other services, there are no relationships between the Filer, WisdomTree Canada, or their respective affiliates.

Business Reasons for Proposed Transaction

39. Questrade believes that the proposed Mergers and the Change in Manager are in the best interests of the unitholders of the applicable Questrade ETF. The Mergers and Change in Manager are being proposed, in part, due to the aggregate management expense ratio of the Questrade ETF platform currently being absorbed by Questrade, which is well above what is ordinarily charged by exchange traded funds with similar investment objectives and strategies. After nearly two years of operation, and taking into consideration Questrade's subsidization of operating expenses, Questrade has re-evaluated whether it is in the unitholders' and management's interests to continue offering the Questrade ETFs. Accordingly, and after considering several alternatives, Questrade believes unitholders are better served by the proposed Mergers and the Change in Manager.

40. Questrade, and not the Questrade ETFs, will bear all costs and expenses associated with calling and holding the Meetings and implementing the Change in Manager and Mergers, including legal fees, filing fees and other expenses associated with preparing, printing and mailing applicable Meeting Materials, obtaining necessary securities regulatory approvals, filing prospectus amendments, press releases and material change reports and other costs associated with calling the Meetings and effecting the Mergers and Change in Manager.

41. The Mergers into the Continuing Funds will eliminate the operating and regulatory costs of operating the Questrade ETFs as separate exchange traded funds, and the unitholders of the respective Continuing Funds, as a result of their greater size and continuous distribution, may over time benefit from a reduction of their respective management expense ratios as the non-trading portion of its operating costs and its regulatory costs are expected to be spread over a larger asset base.

42. WisdomTree is a more experienced ETF-focused asset manager with a global presence. As of June 30, 2017, WisdomTree had approximately US$45 billion in AUM and was the 12th largest ETF sponsor in the world as measured by assets under management.

Impact of the Proposed Transaction

43. The Proposed Transaction is not expected to have any material impact on the business, operations or affairs of the Continuing Funds or the unitholders of the Continuing Funds and WisdomTree Canada intends to manage and administer the Continuing Funds in the similar manner both before and after Closing.

44. In connection with the Change in Manager, WisdomTree Canada intends to change the name of Questrade Global Total Equity ETF to "ONE Global Equity ETF".

45. In connection with the Change in Manager of Questrade Global Total Equity ETF, (i) the manager and trustee will change from Questrade to WisdomTree Canada, (ii) the investment advisor is expected to be One Capital, (iii) the custodian will change from CIBC Mellon Trust Company to State Street Trust Company Canada, (iv) the registrar and transfer agent will change from Computershare Trust Company of Canada to State Street Trust Company Canada, and (v) the auditors will change from KPMG LLP to Ernst & Young LLP. Accordingly, applicable notices of termination have been, or will be, provided to terminating service providers of Questrade Global Total Equity ETF.

46. In connection with the Mergers, the applicable Questrade ETF will merge into the applicable Continuing Fund, and as a result unitholders of the Questrade ETFs will become unitholders of the applicable Continuing Fund and will experience the following changes, (i) the manager and trustee will be WisdomTree Canada, (ii) the investment advisor will be Mellon Capital, (iii) in the case of Questrade Fixed Income Core Plus ETF, Jarislowsky Fraser Limited will not be acting as sub-advisor, (iv) the custodian will be State Street Trust Company Canada, (v) the registrar and transfer agent will be State Street Trust Company Canada, and (vi) the auditors will be Ernst & Young LLP.

47. The material implications of the proposed changes to the unitholders of the Questrade ETFs are all described in the Meeting Materials.

48. There is no intention to change the officers, directors or registered individuals of WisdomTree Canada.

49. The closing of the Proposed Transaction will not adversely affect WisdomTree Canada's financial position or its ability to fulfill its regulatory obligations.

Additional Information with respect to the Mergers

50. The net asset value of each of the Merging Funds and the Continuing Funds is set out in paragraph 26 above.

51. Pursuant to the Mergers, unitholders of a Merging Fund will receive securities of a similar currency hedged class of the corresponding Continuing Fund as they currently own in the Merging Fund.

52. The total value of the units of each Continuing Fund offered to unitholders of the relevant Merging Fund will have a value that is equivalent to the net asset value of the Merging Fund calculated on the effective date of the Merger (or as at the close of business on the business day that is prior to the effective date of the Merger).

53. As set out in paragraph 26 above, the fundamental investment objective of each Merging Fund is not substantially similar to the investment objective of its corresponding Continuing Fund. The Meeting Materials clearly delineate the differences in investment objectives, investment strategies and other material differences between each Merging Fund and the relevant Continuing Fund into which it will be merged.

54. As set out in paragraph 26 above, the management fee of each of WisdomTree U.S. MidCap Dividend Index ETF and WisdomTree U.S. Quality Dividend Growth Index ETF is higher than the management fee of the relevant Merging Funds. The management fee of WisdomTree Yield Enhanced Canada Aggregate Bond Index ETF is lower than the management fee of the relevant Merging Fund. The Meeting Materials clearly delineate the differences in management fees and expense structures between the Merging Funds and the Continuing Funds.

55. The net asset value for each Merging Fund and Continuing Fund is calculated on a daily basis on each day that the TSX is open for trading.

56. No redemption fee will be payable by unitholders of the Merging Funds in connection with the Mergers.

57. Prior to the effective date of the Mergers, each Merging Fund will liquidate its entire portfolio into cash such that the Continuing Funds may acquire portfolio assets that are consistent and acceptable to the portfolio manager of the Continuing Funds and consistent with the investment objectives of the Continuing Funds.

58. Mergers of: (i) 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 and Questrade Russell 1000 Equal Weight US Technology Index ETF Hedged to CAD into WisdomTree U.S. Quality Dividend Growth Index ETF and (ii) Questrade Fixed Income Core Plus ETF into WisdomTree Barclays Yield Enhanced Canada Aggregate Bond Index ETF (each such Questrade ETF being a "**Taxable Merger Terminating Fund**" and each such Continuing Fund being a "**Taxable Merger Continuing Fund**"; and each such Merger being a "**Taxable Merger**") will be effected on a taxable basis.

59. Mergers of Questrade Russell US Midcap Growth Index ETF Hedged to CAD and Questrade Russell US Midcap Value Index ETF Hedged to CAD into WisdomTree U.S. MidCap Dividend Index ETF (each such Questrade ETF being a "**Tax-Deferred Merger Terminating Fund**" and the Continuing Fund being a "**Tax-Deferred Merger Continuing Fund**"; and each such Merger being a "**Tax-Deferred Merger**") will be effected as a "qualifying exchange" within the meaning of section 132.2 of the *Income Tax Act* (Canada) (the **Tax Act**).

60. The redemption provisions of the Questrade ETFs and the Continuing Funds, and Questrade Global Total Equity ETF following the Change in Manager, are the same, including the right to redeem units for cash at a redemption price per unit equal to the lesser of: (i) 95% of the closing price for the units on the TSX on the effective day of the redemption; and (ii) the net asset value per unit on the effective day of the redemption.

61. Questrade is advised by WisdomTree Canada that the Mergers are not considered to be a material change for any of the Continuing Funds.

62. The Questrade ETFs have complied with Part 11 of NI 81-106 in connection with the making of the decision by the board of directors of Questrade to proceed with the Mergers and Change in Manager.

63. Questrade is not entitled to rely upon the approval of the IRC in lieu of unitholder approval for the Mergers due to the fact that one or more conditions of section 5.6 of NI 81-102 will not be met, as described below:

Merging Funds (managed by Questrade)	**Continuing Funds (managed by WisdomTree Canada)**	**Reasons not qualified as Pre-Approved Merger (section 5.6)**
Questrade Russell US Midcap Growth Index ETF Hedged to CAD Questrade Russell US Midcap Value Index ETF Hedged to CAD	WisdomTree U.S. MidCap Dividend Index ETF	• Section 5.6(1)(a)(i) – not the same manager • Section 5.6(1)(a)(ii) – not substantially similar fundamental investment objectives and fee structure
Questrade Russell 1000 Equal Weight US Technology Index ETF Hedged to CAD Questrade Russell 1000 Equal Weight US Industrials Index ETF Hedged to CAD Questrade Russell 1000 Equal Weight US Health Care Index ETF Hedged to CAD Questrade Russell 1000 Equal Weight US Consumer Discretionary Index ETF Hedged to CAD	WisdomTree U.S. Quality Dividend Growth Index ETF	• Section 5.6(1)(a)(i) – not the same manager • Section 5.6(1)(a)(ii) – not substantially similar fundamental investment objectives and fee structure • Section 5.6(1)(b) – merger not effected as a Qualifying Exchange or other tax-deferred transaction under the Tax Act

Merging Funds (managed by Questrade)	Continuing Funds (managed by WisdomTree Canada)	Reasons not qualified as Pre-Approved Merger (section 5.6)
Questrade Fixed Income Core Plus ETF	WisdomTree Yield Enhanced Canada Aggregate Bond Index ETF	• Section 5.6(1)(a)(i) – not the same manager • Section 5.6(1)(a)(ii) – not substantially similar fundamental investment objectives and fee structure • Section 5.6(1)(b) – merger not effected as a Qualifying Exchange or other tax-deferred transaction under the Tax Act

64. At each Meeting, the affirmative vote of not less than a majority of the votes cast by unitholders of the applicable Questrade ETF present in person or represented by proxy at that Meeting is required for approval of the Merger and/or the Change in Manager, as applicable. It is expected that the Merger in respect of each Merging Fund will be implemented if approved by its unitholders, regardless of whether a Merger is approved by unitholders of the other Merging Funds.

65. Subject to receipt of unitholder and regulatory approvals, the Mergers and Change in Manager will occur as soon as reasonably practicable following receipt of all required unitholder and regulatory approvals, subject to the discretion of Questrade to not proceed with any one or more of the Mergers and the Change in Manager. It is currently anticipated that the Mergers and Change in Manager will occur on or before the end of November, 2017.

66. Each Merging Fund will be terminated concurrently or as soon as reasonably possible following, or upon implementation of, the Merger.

Steps for the Taxable Mergers

67. As soon as reasonably practicable, prior to the effective date of the Taxable Mergers, each Taxable Merger Terminating Fund will liquidate its entire portfolio into cash.

68. Prior to the Taxable Mergers, each Taxable Merger Terminating Fund will distribute any net income and net realized capital gains for its current taxation year to the extent necessary to eliminate its liability for non-refundable income tax.

69. The "Exchange Ratio" in respect of the units of each Taxable Merger Terminating Fund will be calculated by dividing the net asset value of the units of the applicable Taxable Merger Terminating Fund by the net asset value of the units of the applicable class of the applicable Taxable Merger Continuing Fund, in each case, as at the close of business on the business day prior to the effective date of the Taxable Merger.

70. On the effective date of the applicable Taxable Merger, each Taxable Merger Terminating Fund will, after satisfying any outstanding liabilities, transfer all of its assets to the applicable Taxable Merger Continuing Fund (which will consist entirely of cash prior to the Taxable Merger) in consideration for an amount (a "**Purchase Price**") equal to the fair market value of the assets transferred to the applicable Taxable Merger Continuing Fund at the effective time of the applicable Taxable Merger.

71. Each Taxable Merger Continuing Fund will satisfy each applicable Purchase Price by issuing to the applicable Taxable Merger Terminating Fund that number of units of the applicable class of the applicable Taxable Merger Continuing Fund (rounded down to the nearest whole unit) equal to the number of units of the applicable Taxable Merger Terminating Fund then outstanding multiplied by the applicable Exchange Ratio (calculated in the same manner as described in step 3 above). Such issued units of the Taxable Merger Continuing Fund will be listed on the TSX at all times while they are held by a Taxable Merger Terminating Fund.

72. Immediately thereafter, all of the units of each Taxable Merger Terminating Fund will be redeemed and the redemption price therefor will be paid by delivering the applicable number of units of the applicable class of the applicable Taxable Merger Continuing Fund to Unitholders of the applicable Taxable Merger Terminating Fund based on the number of such units of such Taxable Merger Terminating Fund then held with each unitholder of the applicable Taxable Merger Terminating Fund receiving that number of units of the applicable class of the applicable Taxable Merger Continuing Fund (rounded down to the nearest whole unit) as is equal to the Exchange Ratio (calculated in the same manner as

described in step 3 above) multiplied by the number of units of the applicable Taxable Merger Terminating Fund held by such unitholder immediately prior to the completion of the Taxable Merger.

73. Each Taxable Merger Terminating Fund will be wound up in connection with the Taxable Mergers.

74. Questrade and WisdomTree Canada have analyzed the tax implications of the Mergers from the perspective of unitholders of the Merging Funds and the Continuing Funds and have concluded that it is more appropriate to effect the Taxable Mergers on a taxable basis.

75. No commission or other fee will be charged to unitholders of the Taxable Merger Terminating Funds on the issue or exchange of securities of the Taxable Merger Continuing Funds.

Steps for the Tax-Deferred Mergers

76. As soon as reasonably practicable, prior to the effective date of the Tax-Deferred Merger, each Tax-Deferred Merger Terminating Fund will liquidate its entire portfolio into cash.

77. Prior to the Tax-Deferred Mergers, each of the Tax-Deferred Merger Terminating Funds and the Tax-Deferred Merger Continuing Fund will distribute any net income and net realized capital gains for its current taxation year to the extent necessary to eliminate its liability for non-refundable income tax.

78. The "**Exchange Ratio**" in respect of the units of each Tax-Deferred Merger Terminating Fund will be calculated by dividing the net asset value of the units of the applicable Tax-Deferred Merger Terminating Fund by the net asset value of the units of the applicable class of the Tax-Deferred Merger Continuing Fund, in each case, as at the close of business on the business day prior to the effective date of the Tax-Deferred Merger.

79. On the effective date of the Tax-Deferred Merger, each of the Tax-Deferred Merger Terminating Funds will, after satisfying any outstanding liabilities, transfer all of its assets to the Tax-Deferred Merger Continuing Fund (which will consist entirely of cash prior to the Tax-Deferred Merger) in consideration for an amount (a "**Purchase Price**") equal to the fair market value of its assets transferred to the Tax-Deferred Merger Continuing Fund at the effective time of the applicable Tax-Deferred Merger.

80. The Tax-Deferred Merger Continuing Fund will satisfy each applicable Purchase Price by issuing to the applicable Tax-Deferred Merger Terminating Fund that number of units of the applicable class of the Tax-Deferred Merger Continuing Fund (rounded down to the nearest whole unit) equal to the number of units of the applicable Tax-Deferred Merger Terminating Fund then outstanding multiplied by the applicable Exchange Ratio (calculated in the same manner as described in step 3 above). Such issued units of the Tax-Deferred Merger Continuing Fund will be listed on the TSX at all times while they are held by a Tax-Deferred Merger Terminating Fund.

81. Immediately thereafter, all of the units of each of the Tax-Deferred Merger Terminating Funds that are listed on the TSX will be redeemed and the redemption price therefor will be paid by delivering the applicable number of units of the applicable class of the Tax-Deferred Merger Continuing Fund to Unitholders of the applicable Tax-Deferred Merger Terminating Fund based on the number of such units of such Tax-Deferred Merger Terminating Fund then held with each unitholder of the applicable Tax-Deferred Merger Terminating Fund receiving that number of units of the applicable class of the Tax-Deferred Merger Continuing Fund (rounded down to the nearest whole unit) as is equal to the Exchange Ratio (calculated in the same manner as described in Step 3 above) multiplied by the number of units of the applicable Tax-Deferred Merger Terminating Fund held by such unitholder immediately prior to the completion of the Tax-Deferred Merger.

82. Each Tax-Deferred Merger Terminating Fund and the Tax-Deferred Merger Continuing Fund will file a joint tax election in respect of the transfer to the Tax-Deferred Merger Continuing Fund of all of the assets of that Tax-Deferred Merger Terminating Fund.

83. Each Tax-Deferred Merger Terminating Fund will be wound-up in connection with the Tax-Deferred Mergers.

84. No commission or other fee will be charged to unitholders of the Tax-Deferred Merger Terminating Fund on the issue or exchange of securities of the Tax-Deferred Merger Continuing Fund.

General

85. In the event that any of the Mergers or the Change in Manager are not approved by unitholders of the applicable Questrade ETF, the Manager currently intends to terminate such remaining Questrade ETF in accordance with its

respective Declaration of Trust. In the event of termination of a Questrade ETF, the Manager will provide not less than 60 days' notice to unitholders of the applicable Questrade ETF and will issue a press release in advance thereof.

86. The Manager expects that all of the current officers and directors of WisdomTree Canada will continue on in their current capacities and that they will continue to have the requisite integrity and experience as contemplated under section 5.7(1)(a)(v) of NI 81-102. The experience and integrity of each of the members of the WisdomTree Canada management team is apparent by their education and years of experience in the investment industry. Such experience and integrity has been established and accepted by the Principal Regulator through the granting of registration to such individuals and/or through the granting of a receipt for the prospectus of the Continuing Funds.

87. The Mergers will not adversely affect WisdomTree Canada's financial position or its ability to fulfill its regulatory obligations.

88. The Requested Approval is not detrimental to the protection of investors in the Questrade ETFs or Continuing Funds or prejudice the public interest.

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Approval is granted provided that for a Questrade ETF, Questrade obtains the prior approval of the securityholders of the Questrade ETFs at the Meetings.

"Darren McKall"
Manager
Investment Fund and Structured Products
Ontario Securities Commission

2.1.3 Bank of Montreal

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – Applicants seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting, s. 42.

December 15, 2017

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, QUÉBEC AND MANITOBA
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
BANK OF MONTREAL
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator in each Jurisdiction (each a "**Decision Maker**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, CQLR, c. I-14.01, varying the Director's decision dated December 17, 2014 (as varied on December 16, 2015, and December 16, 2016, the "**Existing Relief Decision**"), which provides relief from the following derivatives data reporting requirements in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01 (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**" or "**Reporting**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such Reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

The Existing Relief Decision ceases to be available on December 18, 2017 (the "**Sunset Provision**").

The Applicant has requested that the Existing Relief Decision be varied (collectively, the "**Variation Relief Sought**") so that the Sunset Provision in the Existing Relief Decision will (1) not apply with respect to the relief described in paragraphs 1 and 2 for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or

Consent Requirement (as defined below), as applicable, and (2) be extended until December 18, 2018, as it applies to the relief described in paragraph 3.

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

1. the Ontario Securities Commission ("**OSC**") is the Principal Regulator for this application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings provided in the Existing Relief Decision, which are restated below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Identifier" means the data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction.

"Trade Specific Requirement" means a requirement arising under or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

This decision is based on the facts represented by the Applicant set out in the Existing Relief Decision as stated and varied below:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Montréal, Québec, and its principal place of business and executive office in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant is required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers (the "**AMF**"), each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant and have not been withdrawn, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures in order to give effect to the Local Reporting Provisions;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts and as a result has received Required Counterparty Feedback from a majority of its counterparties; however, despite these efforts, the Applicant has not received Required Counterparty Feedback from all of its counterparties;

10. a failure to provide the Variation Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Variation Relief Sought is granted, the Applicant will continue to have the opportunity to make diligent efforts to obtain Required Counterparty Feedback while avoiding such negative implications in respect of existing and prospective derivatives transactions other than to the extent contemplated in paragraphs 3.(A) and (C) of this decision;

12. if the Variation Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback from its counterparties;

13. the Applicant has complied with the requirements of the Existing Relief Decision; and

14. the Applicant is not in default of securities legislation in any jurisdiction.

Decision

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

The decision of the Principal Regulator is that the Variation Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"), the Existing Relief Decision be varied in part, on the foregoing basis and restated as set forth below:

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the Identifier in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

        (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

        (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC and the AMF (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

        (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the Identifier in respect of the Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement and that a required consent has not been provided by the transaction counterparty to the Applicant; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC and the AMF (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the earlier of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under “Jurisdiction of non-reporting counterparty” or “Broker/Clearing Intermediary” in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a “local counterparty” under the Local Reporting Provisions of the Jurisdiction, provided that the Applicant Reports the Subject Transaction to the Jurisdiction in which the Applicant has its principal place of business, as well as in the Jurisdiction in which the Applicant has its head office, if different, and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction, and provided further that the foregoing exemption detailed in

this paragraph 3.(A) shall not be available in respect of a Subject Transaction whenever the transaction counterparty is a person or company with whom the Applicant has no pre-existing contractual relationship relating to transacting in derivatives:

(a) as of June 30, 2017 when the transaction counterparty is a person or company that the Applicant determines (having made diligent efforts to use the information from its own systems) is organized under the laws of the Jurisdiction or has its head office or principal place of business in the Jurisdiction; and

(b) as of June 30, 2018 for any other transaction counterparty;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of a Jurisdiction or that has its head office or principal place of business in a Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate if the transaction counterparty is otherwise a "local counterparty" under the applicable Local Reporting Provisions; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant Reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant, and provided further that the foregoing exemption detailed in this paragraph 3.(C) shall not be available with respect to a Subject Transaction entered into by the Applicant on or after June 30, 2018, in the event the Applicant had no pre-existing contractual relationship relating to transacting in derivatives with any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, as of such date,

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback, substantially in a form acceptable to OSFI, and in turn acceptable to the OSC and the AMF;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC and the AMF; and

(iii) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained.

The foregoing exemptions will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1 and 2 shall continue to be available for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or Consent Requirement, as applicable,

The exemptions provided pursuant to paragraph 3 shall cease to be available on December 18, 2018.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.4 The Bank of Nova Scotia

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – Applicants seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting, s. 42.

December 15, 2017

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, QUÉBEC AND MANITOBA
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
THE BANK OF NOVA SCOTIA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator in each Jurisdiction (each a "**Decision Maker**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, CQLR, c. I-14.01, varying the Director's decision dated December 17, 2014 (as varied on December 16, 2015, and December 16, 2016, the "**Existing Relief Decision**"), which provides relief from the following derivatives data reporting requirements in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01 (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**" or "**Reporting**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such Reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

The Existing Relief Decision ceases to be available on December 18, 2017 (the "**Sunset Provision**").

The Applicant has requested that the Existing Relief Decision be varied (collectively, the "**Variation Relief Sought**") so that the Sunset Provision in the Existing Relief Decision will (1) not apply with respect to the relief described in paragraphs 1 and 2 for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or

Consent Requirement (as defined below), as applicable, and (2) be extended until December 18, 2018, as it applies to the relief described in paragraph 3.

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

1. the Ontario Securities Commission ("**OSC**") is the Principal Regulator for this application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings provided in the Existing Relief Decision, which are restated below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Identifier" means the data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction.

"Trade Specific Requirement" means a requirement arising under or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

This decision is based on the facts represented by the Applicant set out in the Existing Relief Decision as stated and varied below:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Halifax, Nova Scotia, and its principal place of business and executive office in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant is required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant and have not been withdrawn, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures in order to give effect to the Local Reporting Provisions;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts and as a result has received Required Counterparty Feedback from a majority of its counterparties; however, despite these efforts, the Applicant has not received Required Counterparty Feedback from all of its counterparties;

10. a failure to provide the Variation Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Variation Relief Sought is granted, the Applicant will continue to have the opportunity to make diligent efforts to obtain Required Counterparty Feedback while avoiding such negative implications in respect of existing and prospective derivatives transactions other than to the extent contemplated in paragraphs 3.(A) and (C) of this decision;

12. if the Variation Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback from its counterparties;

13. the Applicant has complied with the requirements of the Existing Relief Decision; and

14. the Applicant is not in default of securities legislation in any jurisdiction.

Decision

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

The decision of the Principal Regulator is that the Variation Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"), the Existing Relief Decision be varied in part, on the foregoing basis and restated as set forth below:

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the Identifier in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

        (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

        (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

        (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the Identifier in respect of the Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement and that a required consent has not been provided by the transaction counterparty to the Applicant; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the earlier of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under “Jurisdiction of non-reporting counterparty” or “Broker/Clearing Intermediary” in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a “local counterparty” under the Local Reporting Provisions of the Jurisdiction, provided that the Applicant Reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction, and provided further that the foregoing exemption detailed in this paragraph 3.(A) shall not be available in respect of a Subject Transaction whenever the

transaction counterparty is a person or company with whom the Applicant has no pre-existing contractual relationship relating to transacting in derivatives:

(a) as of June 30, 2017 when the transaction counterparty is a person or company that the Applicant determines (having made diligent efforts to use the information from its own systems) is organized under the laws of the Jurisdiction or has its head office or principal place of business in the Jurisdiction; and

(b) as of June 30, 2018 for any other transaction counterparty;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of a Jurisdiction or that has its head office or principal place of business in a Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate if the transaction counterparty is otherwise a "local counterparty" under the applicable Local Reporting Provisions; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant Reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant, and provided further that the foregoing exemption detailed in this paragraph 3.(C) shall not be available with respect to a Subject Transaction entered into by the Applicant on or after June 30, 2018, in the event the Applicant had no pre-existing contractual relationship relating to transacting in derivatives with any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, as of such date,

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback, substantially in a form acceptable to OSFI, and in turn acceptable to the OSC;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

(iii) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained.

The foregoing exemptions will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1 and 2 shall continue to be available for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or Consent Requirement, as applicable,

The exemptions provided pursuant to paragraph 3 shall cease to be available on December 18, 2018.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.5 Canadian Imperial Bank of Commerce

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – Applicants seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting, s. 42.

December 15, 2017

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, QUÉBEC AND MANITOBA
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
CANADIAN IMPERIAL BANK OF COMMERCE
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator in each Jurisdiction (each a "**Decision Maker**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, CQLR, c. I-14.01, varying the Director's decision dated December 17, 2014 (as varied on December 16, 2015, and December 16, 2016, the "**Existing Relief Decision**"), which provides relief from the following derivatives data reporting requirements in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01 (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**" or "**Reporting**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such Reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

The Existing Relief Decision ceases to be available on December 18, 2017 (the "**Sunset Provision**").

The Applicant has requested that the Existing Relief Decision be varied (collectively, the "**Variation Relief Sought**") so that the Sunset Provision in the Existing Relief Decision will (1) not apply with respect to the relief described in paragraphs 1 and 2 for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or

Consent Requirement (as defined below), as applicable, and (2) be extended until December 18, 2018, as it applies to the relief described in paragraph 3.

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

1. the Ontario Securities Commission ("**OSC**") is the Principal Regulator for this application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings provided in the Existing Relief Decision, which are restated below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Identifier" means the data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction.

"Trade Specific Requirement" means a requirement arising under or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

This decision is based on the facts represented by the Applicant set out in the Existing Relief Decision as stated and varied below:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant is required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant and have not been withdrawn, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures in order to give effect to the Local Reporting Provisions;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts and as a result has received Required Counterparty Feedback from a majority of its counterparties; however, despite these efforts, the Applicant has not received Required Counterparty Feedback from all of its counterparties;

10. a failure to provide the Variation Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Variation Relief Sought is granted, the Applicant will continue to have the opportunity to make diligent efforts to obtain Required Counterparty Feedback while avoiding such negative implications in respect of existing and prospective derivatives transactions other than to the extent contemplated in paragraphs 3.(A) and (C) of this decision;

12. if the Variation Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback from its counterparties;

13. the Applicant has complied with the requirements of the Existing Relief Decision; and

14. the Applicant is not in default of securities legislation in any jurisdiction.

Decision

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

The decision of the Principal Regulator is that the Variation Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"), the Existing Relief Decision be varied in part, on the foregoing basis and restated as set forth below:

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the Identifier in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

        (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

        (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

        (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the Identifier in respect of the Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement and that a required consent has not been provided by the transaction counterparty to the Applicant; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the earlier of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under “Jurisdiction of non-reporting counterparty” or “Broker/Clearing Intermediary” in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a “local counterparty” under the Local Reporting Provisions of the Jurisdiction, provided that the Applicant Reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty’s jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction, and provided further that the foregoing exemption detailed in this paragraph 3.(A) shall not be available in respect of a Subject Transaction whenever the

transaction counterparty is a person or company with whom the Applicant has no pre-existing contractual relationship relating to transacting in derivatives:

(a) as of June 30, 2017 when the transaction counterparty is a person or company that the Applicant determines (having made diligent efforts to use the information from its own systems) is organized under the laws of the Jurisdiction or has its head office or principal place of business in the Jurisdiction; and

(b) as of June 30, 2018 for any other transaction counterparty;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of a Jurisdiction or that has its head office or principal place of business in a Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate if the transaction counterparty is otherwise a "local counterparty" under the applicable Local Reporting Provisions; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant Reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant, and provided further that the foregoing exemption detailed in this paragraph 3.(C) shall not be available with respect to a Subject Transaction entered into by the Applicant on or after June 30, 2018, in the event the Applicant had no pre-existing contractual relationship relating to transacting in derivatives with any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, as of such date,

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback, substantially in a form acceptable to OSFI, and in turn acceptable to the OSC;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

(iii) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained.

The foregoing exemptions will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1 and 2 shall continue to be available for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or Consent Requirement, as applicable,

The exemptions provided pursuant to paragraph 3 shall cease to be available on December 18, 2018.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.6 National Bank of Canada

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – Applicants seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting, s. 42.

December 15, 2017

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUÉBEC, ONTARIO AND MANITOBA
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
NATIONAL BANK OF CANADA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator in each Jurisdiction (each a "**Decision Maker**") has received an application from the Applicant for an order, in Québec pursuant to Section 86 of the *Derivatives Act*, CQLR, c. I-14.01, in Ontario, pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, varying the Director's decision no. 2014-EDERI-0003 dated December 17, 2014 (as varied by decision no. 2015-EDERI-0016 on December 16, 2015, and December 16, 2016, the "**Existing Relief Decision**"), which provides relief from the following derivatives data reporting requirements in relation to new and existing transactions under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 especting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01, in Ontario under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**" or "**Reporting**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such Reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

The Existing Relief Decision ceases to be available on December 18, 2017 (the "**Sunset Provision**").

The Applicant has requested that the Existing Relief Decision be varied (collectively, the "**Variation Relief Sought**") so that the Sunset Provision in the Existing Relief Decision will (1) not apply with respect to the relief described in paragraphs 1 and 2 for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or

Consent Requirement (as defined below), as applicable, and (2) be extended until December 18, 2018, as it applies to the relief described in paragraph 3.

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

1. the Autorité des marchés financiers ("**AMF**") is the Principal Regulator for this application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in Regulation 14-101 – *Definitions* and Regulation 11-102 – *Passport System* have the same meaning if used in this decision, unless otherwise defined.

For the purposes of this decision the following terms have the meanings provided in the Existing Relief Decision, which are restated below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Identifier" means the data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction.

"Trade Specific Requirement" means a requirement arising under or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

This decision is based on the facts represented by the Applicant set out in the Existing Relief Decision as stated and varied below:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Montréal, Québec;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant is required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. on October 29, 2014, the Ontario Securities Commission and the Manitoba Securities Commission, and on October 30, 2014, the AMF, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

5. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant and have not been withdrawn, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

6. the Applicant has established or procured internal technology, systems and procedures in order to give effect to the Local Reporting Provisions;

7. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable

the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

8. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts and as a result has received Required Counterparty Feedback from a majority of its counterparties; however, despite these efforts, the Applicant has not received Required Counterparty Feedback from all of its counterparties;

9. a failure to provide the Variation Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

10. if the Variation Relief Sought is granted, the Applicant will continue to have the opportunity to make diligent efforts to obtain Required Counterparty Feedback while avoiding such negative implications in respect of existing and prospective derivatives transactions other than to the extent contemplated in paragraphs 3.(A) and (C) of this decision;

11. if the Variation Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback from its counterparties;

12. the Applicant has complied with the requirements of the Existing Relief Decision; and

13. the Applicant is not in default of securities legislation in any jurisdiction.

Decision

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

The decision of the Principal Regulator is that the Variation Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"), the Existing Relief Decision be varied in part, on the foregoing basis and restated as set forth below:

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the Identifier in respect of a Subject Transaction, in the following circumstances:

   (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

   (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

   provided that the Applicant:

      (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

      (ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

      (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

      (iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the Identifier in respect of the Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement and that a required consent has not been provided by the transaction counterparty to the Applicant; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the earlier of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under “Jurisdiction of non-reporting counterparty” or “Broker/Clearing Intermediary” in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a “local counterparty” under the Local Reporting Provisions of the Jurisdiction, provided that the Applicant Reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction, and provided further that the foregoing exemption detailed in this paragraph 3.(A) shall not be available in respect of a Subject Transaction whenever the transaction counterparty is a person or company with whom the Applicant has no pre-existing contractual relationship relating to transacting in derivatives:

(a) as of June 30, 2017 when the transaction counterparty is a person or company that the Applicant determines (having made diligent efforts to use the information from its own systems) is organized

under the laws of the Jurisdiction or has its head office or principal place of business in the Jurisdiction; and

(b) as of June 30, 2018 for any other transaction counterparty;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of a Jurisdiction or that has its head office or principal place of business in a Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate if the transaction counterparty is otherwise a "local counterparty" under the applicable Local Reporting Provisions; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant Reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant, and provided further that the foregoing exemption detailed in this paragraph 3.(C) shall not be available with respect to a Subject Transaction entered into by the Applicant on or after June 30, 2018, in the event the Applicant had no pre-existing contractual relationship relating to transacting in derivatives with any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, as of such date,

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback, substantially in a form acceptable to OSFI, and in turn acceptable to the AMF;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the AMF; and

(iii) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained.

The foregoing exemptions will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1 and 2 shall continue to be available for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or Consent Requirement, as applicable,

The exemptions provided pursuant to paragraph 3 shall cease to be available on December 18, 2018.

"Lise Estelle Brault"
Directrice principale de l'encadrement des dérivés
Autorité des marchés financiers

2.1.7 Royal Bank of Canada

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – Applicants seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting, s. 42.

December 15, 2017

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUÉBEC, ONTARIO AND MANITOBA
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
ROYAL BANK OF CANADA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator in each Jurisdiction (each a "**Decision Maker**") has received an application from the Applicant for an order, in Québec pursuant to Section 86 of the *Derivatives Act*, CQLR, c. I-14.01, in Ontario, pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, varying the Director's decision no. 2014-EDERI-0002 dated December 17, 2014 (as varied by decision no. 2015-EDERI-0017 on December 16, 2015, and December 16, 2016, the "**Existing Relief Decision**"), which provides relief from the following derivatives data reporting requirements in relation to new and existing transactions under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01, in Ontario under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**" or "**Reporting**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such Reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

The Existing Relief Decision ceases to be available on December 18, 2017 (the "**Sunset Provision**").

The Applicant has requested that the Existing Relief Decision be varied (collectively, the "**Variation Relief Sought**") so that the Sunset Provision in the Existing Relief Decision will (1) not apply with respect to the relief described in paragraphs 1 and 2 for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or

Consent Requirement (as defined below), as applicable, and (2) be extended until December 18, 2018, as it applies to the relief described in paragraph 3.

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

1. the Autorité des marchés financiers ("**AMF**") is the Principal Regulator for this application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in Regulation 14-101 – **Definitions** and Regulation 11-102 – **Passport System** have the same meaning if used in this decision, unless otherwise defined.

For the purposes of this decision the following terms have the meanings provided in the Existing Relief Decision, which are restated below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Identifier" means the data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction.

"Trade Specific Requirement" means a requirement arising under or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

This decision is based on the facts represented by the Applicant set out in the Existing Relief Decision as stated and varied below:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Montréal, Québec, and its principal place of business and executive office in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant is required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the Ontario Securities Commission ("**OSC**") and the Manitoba Securities Commission, and on October 30, 2014, the AMF, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant and have not been withdrawn, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures in order to give effect to the Local Reporting Provisions;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts and as a result has received Required Counterparty Feedback from a majority of its counterparties; however, despite these efforts, the Applicant has not received Required Counterparty Feedback from all of its counterparties;

10. a failure to provide the Variation Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Variation Relief Sought is granted, the Applicant will continue to have the opportunity to make diligent efforts to obtain Required Counterparty Feedback while avoiding such negative implications in respect of existing and prospective derivatives transactions other than to the extent contemplated in paragraphs 3.(A) and (C) of this decision;

12. if the Variation Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback from its counterparties;

13. the Applicant has complied with the requirements of the Existing Relief Decision; and

14. the Applicant is not in default of securities legislation in any jurisdiction.

Decision

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

The decision of the Principal Regulator is that the Variation Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"), the Existing Relief Decision be varied in part, on the foregoing basis and restated as set forth below:

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the Identifier in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

        (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

        (ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF and the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

        (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the Identifier in respect of the Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement and that a required consent has not been provided by the transaction counterparty to the Applicant; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF and the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the earlier of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under “Jurisdiction of non-reporting counterparty” or “Broker/Clearing Intermediary” in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a “local counterparty” under the Local Reporting Provisions of the Jurisdiction, provided that the Applicant Reports the Subject Transaction to the Jurisdiction in which the Applicant has its principal place of business, as well as in the Jurisdiction in which the Applicant has its head office, if different, and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction, and provided further that the foregoing exemption detailed in

this paragraph 3.(A) shall not be available in respect of a Subject Transaction whenever the transaction counterparty is a person or company with whom the Applicant has no pre-existing contractual relationship relating to transacting in derivatives:

(a) as of June 30, 2017 when the transaction counterparty is a person or company that the Applicant determines (having made diligent efforts to use the information from its own systems) is organized under the laws of the Jurisdiction or has its head office or principal place of business in the Jurisdiction; and

(b) as of June 30, 2018 for any other transaction counterparty;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of a Jurisdiction or that has its head office or principal place of business in a Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate if the transaction counterparty is otherwise a "local counterparty" under the applicable Local Reporting Provisions; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant Reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant, and provided further that the foregoing exemption detailed in this paragraph 3.(C) shall not be available with respect to a Subject Transaction entered into by the Applicant on or after June 30, 2018, in the event the Applicant had no pre-existing contractual relationship relating to transacting in derivatives with any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, as of such date,

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback, substantially in a form acceptable to OSFI, and in turn acceptable to the AMF and the OSC;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the AMF and the OSC; and

(iii) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained.

The foregoing exemptions will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1 and 2 shall continue to be available for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or Consent Requirement, as applicable,

The exemptions provided pursuant to paragraph 3 shall cease to be available on December 18, 2018.

"Lise Estelle Brault"
Directrice principale de l'encadrement des dérivés
Autorité des marchés financiers

2.1.8 The Toronto-Dominion Bank

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – Applicants seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting, s. 42.

December 15, 2017

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, QUÉBEC AND MANITOBA
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
THE TORONTO-DOMINION BANK
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator in each Jurisdiction (each a "**Decision Maker**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, CQLR, c. I-14.01, varying the Director's decision dated December 17, 2014 (as varied on December 16, 2015, and December 16, 2016, the "**Existing Relief Decision**"), which provides relief from the following derivatives data reporting requirements in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01 (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**" or "**Reporting**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such Reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

The Existing Relief Decision ceases to be available on December 18, 2017 (the "**Sunset Provision**").

The Applicant has requested that the Existing Relief Decision be varied (collectively, the "**Variation Relief Sought**") so that the Sunset Provision in the Existing Relief Decision will (1) not apply with respect to the relief described in paragraphs 1 and 2 for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or

Consent Requirement (as defined below), as applicable, and (2) be extended until December 18, 2018, as it applies to the relief described in paragraph 3.

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

1. the Ontario Securities Commission ("OSC") is the Principal Regulator for this application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings provided in the Existing Relief Decision, which are restated below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Identifier" means the data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction.

"Trade Specific Requirement" means a requirement arising under or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

This decision is based on the facts represented by the Applicant set out in the Existing Relief Decision as stated and varied below:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant is required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant and have not been withdrawn, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures in order to give effect to the Local Reporting Provisions;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts and as a result has received Required Counterparty Feedback from a majority of its counterparties; however, despite these efforts, the Applicant has not received Required Counterparty Feedback from all of its counterparties;

10. a failure to provide the Variation Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Variation Relief Sought is granted, the Applicant will continue to have the opportunity to make diligent efforts to obtain Required Counterparty Feedback while avoiding such negative implications in respect of existing and prospective derivatives transactions other than to the extent contemplated in paragraphs 3.(A) and (C) of this decision;

12. if the Variation Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback from its counterparties;

13. the Applicant has complied with the requirements of the Existing Relief Decision; and

14. the Applicant is not in default of securities legislation in any jurisdiction.

Decision

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

The decision of the Principal Regulator is that the Variation Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"), the Existing Relief Decision be varied in part, on the foregoing basis and restated as set forth below:

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the Identifier in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

        (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

        (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

        (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the Identifier in respect of the Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement and that a required consent has not been provided by the transaction counterparty to the Applicant; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the earlier of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under “Jurisdiction of non-reporting counterparty” or “Broker/Clearing Intermediary” in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a “local counterparty” under the Local Reporting Provisions of the Jurisdiction, provided that the Applicant Reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty’s jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction, and provided further that the foregoing exemption detailed in this paragraph 3.(A) shall not be available in respect of a Subject Transaction whenever the

transaction counterparty is a person or company with whom the Applicant has no pre-existing contractual relationship relating to transacting in derivatives:

(a) as of June 30, 2017 when the transaction counterparty is a person or company that the Applicant determines (having made diligent efforts to use the information from its own systems) is organized under the laws of the Jurisdiction or has its head office or principal place of business in the Jurisdiction; and

(b) as of June 30, 2018 for any other transaction counterparty;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of a Jurisdiction or that has its head office or principal place of business in a Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate if the transaction counterparty is otherwise a "local counterparty" under the applicable Local Reporting Provisions; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant Reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant, and provided further that the foregoing exemption detailed in this paragraph 3.(C) shall not be available with respect to a Subject Transaction entered into by the Applicant on or after June 30, 2018, in the event the Applicant had no pre-existing contractual relationship relating to transacting in derivatives with any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, as of such date,

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback, substantially in a form acceptable to OSFI, and in turn acceptable to the OSC;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

(iii) makes diligent efforts, where required, to correct any Reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained.

The foregoing exemptions will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1 and 2 shall continue to be available for so long as the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law or Consent Requirement, as applicable,

The exemptions provided pursuant to paragraph 3 shall cease to be available on December 18, 2018.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.9 I.G. Investment Management, Ltd.

Headnote

Investment fund manager and portfolio manager – Relief to record mortgage warehouse loans as a current asset despite new accounting standard, IFRS 9 (Financial Instruments), requiring them be recorded as a non-current asset. Relief from the working capital calculation, Form 31-103F1. Relief provided due to uniqueness of the Filer's business model and because the Filer's financial statements will continue to be prepared in accordance with IFRS.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 12, Form 31-103F1.
Multilateral Instrument 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

December 6, 2017

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

AND

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

AND

IN THE MATTER OF
I.G. INVESTMENT MANAGEMENT, LTD.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) under section 15 of National Instrument 31-103 *Registration Requirements and Exemptions and Ongoing Registrant Obligations* (NI 31-103) for an order (the Exemption Sought) exempting the Filer from the requirement of section 12 of NI 31-103 that requires The Filer to calculate its excess working capital in accordance with Form 31-103F1 *Calculation of Excess Working Capital* (Form 31-103F1) to enable it to treat its "mortgage warehouse" (Warehouse), as defined below, as a current asset should it choose to classify the Warehouse on an amortized cost basis in its financial statements upon the adoption of International Financial Reporting Standard 9 *Financial Instruments* (IFRS 9).

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

(a) the Manitoba 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 Quebec and Newfoundland and Labrador, and

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

Interpretation

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

Representations

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

1.1 the Filer is a corporation continued under the Ontario *Business Corporations Act* (OBCA) and it acts as:

(i) investment fund manager for approximately 153 Investors Group Funds, securities of which are qualified for distribution to the public in all provinces and territories in Canada which, as such, are reporting issuers or equivalent in all of those jurisdictions;

(ii) adviser for a number of the Investors Group Mutual Funds;

(iii) trustee for the Investors Group Mutual Funds that are trusts; and

(iv) originator of mortgages on residential properties to clients of its affiliated mutual fund and investment dealers.

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

1.3 Under NI 31-103, the Filer is required to maintain minimum excess working capital of $100,000, calculated using the accounting principles used to prepare its financial statements as set out in National Instrument 52-107 *Acceptable Accounting Principles and Audit Standards* (NI 52-107), which, as of January 1, 2018, will include IFRS 9.

1.4 Historically, the FIler has always maintained a significant amount of excess working capital.

1.5 Under Form 31-103F1, mortgages are included as current assets in the working capital of the registered firm, subject to the application of a specified margin rate.

1.6 Currently, the residential mortgages originated by the Filer are temporarily funded through internal resources pending sale or securitization to a long term funding source. Until that sale or securitization is completed, the mortgages are held by the Filer in the Warehouse and are treated as being "held for trading" under International Accounting Standard 39 *Financial Instruments* (IAS 39) and, as such, are recorded as current assets in its financial statements. The “held for trading” and “current asset” classifications are consistent with the liquidity of these assets and their availability to meet near term obligations if required.

1.7 The balance of the Warehouse has tended to be within a range of $300 million to $600 million at quarter ends over the last five years. This has represented a significant component of the Filer’s excess working capital over the last five years (after subjecting the Warehouse to applicable margining requirements). Traditionally significant capital has been retained at the Filer representing excess capital of the IGM Financial Inc. group of companies. This capital has been retained in the business to ensure financial flexibility in pursuit of opportunities for business growth. Recently, a number of opportunities have been undertaken requiring use of this capital.

1.8 Once the ultimate source of the funding for these mortgages is identified, an assessment is carried out under IAS 39 to determine whether they are eligible for derecognition from the statement of financial position based upon whether risks and rewards of ownership are substantively transferred. In the case of sales, the loans are derecognized, while in the case of securitizations, the loans fail to be derecognized. Upon a securitization transaction, under IAS 39, the loans are reclassified from “held to trading” to “held to collect”, which is consistent with the long term nature of the liability.

1.9 IFRS 9 contemplates that the default categorization of financial assets is Fair Value Through Profit and Loss (FVTPL) but allows a firm to choose an alternative classification, namely amortized cost or Fair Value Through Other Comprehensive Income (FVTOCI). Although IFRS 9, unlike IAS 39, no longer uses the terms “held for trading” or “held to collect”, these considerations are important in determining which classification choice a firm should make.

1.10 Under IFRS 9, the Filer will be required to choose a method of classification for loans in the Warehouse at time of origination, without the ability to reclassify this designation upon a securitization transaction, as has been the Filer’s practice under IAS 39.

1.11 The International Accounting Standards Board requires classification of financial assets upon initial recognition in part because it aligns the measurement of these assets with the way the entity manages them. Reclassification thereafter is not permitted because (i) it would not make it easier for readers of the entity’s financial statements to understand the information, (ii) allowing reclassifications would increase complexity since detailed guidance would be required to specify when they would be required and what the subsequent accounting should be, and (iii) since the classification at the outset is based on the entity’s business model, reclassification should not be necessary since that model should not change.

1.12 This rationale does not directly address whether assets should be classified as current or non-current. Instead the assessment comes from guidance in International Accounting Standard 1 that indicates an asset should be classified as current if it meets any of four criteria:

(1) the asset is expected to be realized in its normal operating cycle,

(2) the asset is held for trading,

(3) the asset is expected to be realized within 12 months, or

(4) the asset is cash.

A classification of amortized cost implies that the asset is in a business model whose objective is to collect the contractual cash flows, therefore only a portion would be considered current (namely the cash flows to be collected within 12 months). A classification of FVTOCI again implies that the asset is in a business model whose objective is to collect the contractual cash flows, and also to sell, therefore only a portion would be considered current. A classification of FVTPL is the only designation whose business model implies that the objective is to sell the asset, which is consistent with the characteristics of the Warehouse.

1.13 When mortgages are funded, there is currently no ability to identify whether the mortgages will be ultimately sold or securitized. That assessment is made at a later date depending on the requirements of the third party structures. As a result, the existing approach is to classify all mortgages as “held for trading” initially, on the basis that these mortgages are liquid and will be ultimately be sold or securitized. Once the sell or securitize assessment is made to securitize the loans, the mortgages are reclassified at amortized cost as they will remain on the statement of financial position until maturity. Under IFRS 9, there is no ability to reclassify (as the Filer’s overall business model has not changed, only the use for a particular mortgage), so the initial classification will be used throughout the period that the mortgage is recorded on the firm’s statement of financial position. Therefore, it is the initial classification decision which will drive current versus non-current assessment.

1.14 While a classification choice of FVTPL results in classification of the mortgage loans as current assets, this classification requires fair valuing of the mortgage loans on an ongoing basis with changes in fair value being reflected in the statement of profit or loss. In contrast, a classification choice of amortized cost results in classification of the mortgage loans as non-current assets (until the term to maturity is less than twelve months) with changes in fair value of the loans not being recorded within the statement of profit or loss. Due to the firm’s inability to change the classification to “held to collect” upon securitization, under IFRS9, should the Filer continue with its current practice of classifying the Warehouse as “held for trading”, this will result in significant earnings volatility once loans are securitized. The magnitude of these fair value adjustments recorded in net income relating to securitized loans would make it challenging for the securityholders, potential investors, analysts, rating agencies and other members of the public who review the financial statements of the Filer’s parent company, IGM Financial Inc., which is a public issuer on the TSX, to understand the firm’s results. As a result, the preferred approach of both the Filer and IGM Financial Inc. would be to classify the Warehouse on an amortized cost basis.

1.15 Although a classification choice of FVTOCI is also available to the company, a classification on this basis would result in the mortgages being classified as non-current assets, as they would not meet any of the four current asset criteria. This classification is similar to an amortized cost classification in that it is predicated on the assumption of the business model being to collect contractual cash flows (as well as to sell). This classification would have a similar earnings impact as the amortized cost classification, as interest income would be recognized in the same manner.

1.16 IFRS 9 requires an entity to classify financial assets based on the most appropriate business model and contractual cash flow assessment. An entity can choose amortized cost or FVTOCI. If neither of those classifications are used, then FVTPL is required. Regardless, an entity can choose to designate as FVTPL if doing so eliminates or significantly reduces an accounting mismatch.

1.17 Irrespective of the method of classification chosen for the Warehouse under IFRS 9, there is no change in the character of the Warehouse, in the marketability of the loans in the Warehouse, nor in the Filer’s ability to utilize this capital to meet current obligations or other near term capital requirements. Mortgages are held in the Warehouse for a relatively brief period of time, with an average holding period from between 39 to 45 days over the most recent periods. In addition, the mortgages originated by the Filer have significantly lower default rates than those experienced by other financial institutions in Canada, with impaired loans representing 0.03% as of December 31, 2016, 0.04% as of December 31, 2015 and 0.03% as of December 31, 2014 of the total outstanding as of those dates.

1.18 Should the Filer classify the Warehouse on an amortized cost basis, these loans would not be considered current assets on Form 31-103F1, and the firm’s excess working capital would be expected to, on occasion, fall below the

minimum excess working capital requirements of NI 31-103. Therefore, the Filer requires the Exemption Sought to ensure it continues to meet the minimum excess working capital requirements of NI 31-103 following adoption of IFRS 9.

1.19 the Filer proposes to address the interaction of the financial statement reporting requirements of IFRS 9 as incorporated into NI 52-107 and the excess working capital requirements of NI 31-103 by treating the Warehouse:

- on an amortized cost basis for the purpose of preparing its financial statements in accordance with NI 52-107, which is the most appropriate approach for the Filer and IGM Financial Inc. from an earnings recognition perspective over the life of the mortgage loan following securitization transactions given that reclassification of the loans held in the Warehouse upon securitization is not permitted under IFRS 9, and

- as a current asset for the purpose of calculating its excess working capital for the purpose of Form 31-103F1, recognizing that this is suitable given the liquidity of the loans held in the Warehouse and the ability of the Filer to designate this classification in accordance with NI 52-107.

Decision

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

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

"C.P. Besko"
Director
The Manitoba Securities Commission

2.1.10 FortisBC Energy Inc. et al.

Headnote

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

Applicable Legislative Provisions

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

December 15, 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
FORTISBC ENERGY INC.,
FORTISBC INC.,
FORTISALBERTA INC.,
NEWFOUNDLAND POWER INC. AND
CARIBBEAN UTILITIES COMPANY, LTD.
(COLLECTIVELY, THE FILERS)

DECISION

Background

The principal regulator in the Jurisdiction (the **Principal Regulator**) has received an application (the **Application**) from the Filers for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for an exemption (the **Exemption Sought**) from the requirements of section 3.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that financial statements (a) be prepared in accordance with Canadian generally accepted accounting principles applicable to publicly accountable enterprises and (b) disclose an unreserved statement of compliance with IFRS in the case of annual financial statements and an unreserved statement of compliance with IAS 34 in the case of an interim financial report. The Exemption Sought is similar to the exemption granted by the Principal Regulator in the Jurisdiction to the Filers and their parent company, Fortis Inc. (**Fortis**) on January 24, 2014 in *Re Fortis Inc., on behalf of itself and FortisBC Holdings Inc., FortisBC Energy Inc., FortisBC Inc., FortisAlberta Inc., Newfoundland Power Inc. and Caribbean Utilities Company, Ltd.* (the **U.S. GAAP Relief**).

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;

(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 British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut (the **Passport Jurisdictions**); and

(c) the decision is the decision of the Principal Regulator and automatically results in an equivalent decision in the Passport Jurisdictions.

Interpretation

In this decision:

(a) unless otherwise defined herein, terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 52-107 have the same meaning; and

(b) "activities subject to rate regulation" has the meaning ascribed thereto in the Handbook.

Representations

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

Fortis

1. Fortis is a leader in the North American regulated electric and gas utility business.

2. Fortis is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions other than the Yukon Territory, the Northwest Territories and Nunavut and, to its knowledge, is not in default of securities legislation in any jurisdiction in Canada.

3. Fortis is a reporting issuer with the Securities and Exchange Commission subject to the United States *Securities Exchange Act of 1934*, as amended.

FortisBC Energy Inc.

4. FortisBC Energy Inc. (**FEI**) is a gas distribution company incorporated under the laws of British Columbia. The head office of FEI is located in Vancouver, British Columbia.

5. FEI is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions and, to its knowledge, is not in default of securities legislation in any jurisdiction in Canada.

FortisBC Inc.

6. FortisBC Inc. (**FBC**) is an integrated electric utility incorporated under the laws of British Columbia. The head office of FBC is located in Kelowna, British Columbia.

7. FBC is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions other than the Yukon Territory, the Northwest Territories and Nunavut and, to its knowledge, is not in default of securities legislation in any jurisdiction in Canada.

FortisAlberta Inc.

8. FortisAlberta Inc. (**FAB**) is an electricity distribution company incorporated under the laws of Alberta. The head office of FAB is located in Calgary, Alberta.

9. FAB is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions other than the Yukon Territory, the Northwest Territories and Nunavut and, to its knowledge, is not in default of securities legislation in any jurisdiction in Canada.

Newfoundland Power Inc.

10. Newfoundland Power Inc. (**NPI**) is an integrated electric utility incorporated under the laws of Newfoundland and Labrador. The head office of NPI is located in St. John's, Newfoundland and Labrador.

11. NPI is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions other than the Yukon Territory, the Northwest Territories and Nunavut and, to its knowledge, is not in default of securities legislation in any jurisdiction in Canada.

Caribbean Utilities Company, Ltd.

12. Caribbean Utilities Company, Ltd. (**CUC**) is an integrated electric utility incorporated under the laws of the Cayman Islands. The head office of CUC is located in Grand Cayman, Cayman Islands.

13. CUC is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions other than the Yukon Territory, the Northwest Territories and Nunavut and, to its knowledge, is not in default of securities legislation in any jurisdiction in Canada.

General

14. Each of the Filers is a subsidiary of Fortis and the financial results of each such subsidiary are reflected in the consolidated financial statements prepared and filed by Fortis.

15. Each of the Filers currently prepares and files its financial statements for annual and interim periods in accordance with U.S. GAAP, in reliance on the U.S. GAAP Relief.

16. Each of the Filers has activities subject to rate regulation.

17. None of the Filers is currently an SEC issuer.

18. Were any of the Filers SEC issuers, they would be permitted by section 3.7 of NI 52-107 to file their financial statements prepared in accordance with U.S. GAAP.

19. The U.S. GAAP Relief will expire no later than January 1, 2019.

20. The International Accounting Standards Board (**IASB**) continues to work on a project focusing on accounting specific to activities subject to rate regulation. It is not yet known when this project will be completed or whether IFRS will include a specific standard that is mandatory for entities with activities subject to rate regulation.

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.

21. The decision of the Principal Regulator under the Legislation is that:

    (a) the U.S. GAAP Relief is revoked;

    (b) the Exemption Sought is granted to each Filer in respect of such Filer's financial statements required to be filed on or after the date of this order, provided that the Filer prepares such financial statements in accordance with U.S. GAAP; and

    (c) the Exemption Sought will terminate in respect of a Filer on the earliest of the following:

        (i) January 1, 2024;

        (ii) if such Filer ceases to have activities subject to rate regulation, the first day of the Filer's financial year that commences after the Filer ceases to have activities subject to rate regulation; and

        (iii) the effective date prescribed by the IASB for the mandatory application of a standard within IFRS specific to entities with activities subject to rate regulation.

“Cameron McInnis”
Chief Accountant
Ontario Securities Commission

2.1.11 Brompton Funds Limited and Goldman Sachs U.S. Income Builder Trust

Headnote

Multilateral Instrument 11-102 Passport System – Approval of investment fund mergers – approval required because merger does not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 – merger is not a tax-deferred transaction – the fundamental investment objectives of the terminating fund and the continuing fund are not substantially similar – merger to otherwise comply with pre-approval criteria, including unitholder vote, IRC approval.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 5.5(1)(b), 5.7(1)(b).

December 11, 2017

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

AND

IN THE MATTER OF
THE PROCESS FOR APPLICATIONS FOR APPROVAL
IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
BROMPTON FUNDS LIMITED
(the Filer)

AND

GOLDMAN SACHS U.S. INCOME BUILDER TRUST
(GSB)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of GSB for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) granting approval under subsection 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) to merge (the **Merger**) GSB and Symphony Floating Rate Senior Loan Fund (**SSF**), with SSF as the continuing fund (the **Approval Sought**).

Under the passport system:

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

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

Interpretation

Defined terms contained in NI 81-102, National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning in this decision unless they are defined in this decision.

Representations

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

The Filer

1. The Filer is a corporation governed by the laws of Ontario with its head office in Toronto, Ontario.

2. The Filer is registered under NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* as an investment fund manager, portfolio manager, commodity trading manager and an exempt market dealer in Ontario and is also registered as an investment fund manager in Newfoundland and Labrador and Quebec.

3. The Filer is a wholly-owned subsidiary of Brompton Corp.

4. The Filer is the manager and promoter of each of GSB and SSF (the **Funds**).

5. The Filer is not in default of any requirement of securities legislation in any of the Jurisdictions.

Goldman Sachs U.S. Income Builder Trust

6. GSB is a closed-end investment fund established under the laws of the Province of Ontario that is governed by an amended and restated declaration of trust dated May 26, 2014 (the **GSB Declaration of Trust**) with TSX Trust Company as trustee (the **Trustee**).

7. GSB was qualified by a prospectus dated May 26, 2014.

8. GSB's issued and outstanding Class A units currently trade on the Toronto Stock Exchange (**TSX**) under the ticker symbol GSB.UN and its issued Class U units are not listed for trading.

9. GSB is a reporting issuer under applicable securities legislation of the Jurisdictions. GSB is not in default of securities legislation in the Jurisdictions.

The Continuing Fund

10. SSF is a closed-end investment fund established under the laws of the Province of Ontario that is governed by a fifth amended and restated declaration of trust dated as of November 22, 2016 (the **SSF Declaration of Trust**) with the Trustee as trustee.

11. SSF was qualified by a prospectus dated October 19, 2011.

12. SSF's issued Class A units currently trade on the TSX under the ticker symbol SSF.UN and its issued Class C units, Class F units and Class U units are not listed for trading.

13. SSF is a reporting issuer under applicable securities legislation of the Jurisdictions. SSF is not in default of securities legislation in the Jurisdictions.

The Proposed Merger

14. The Filer intends to merge GSB into SSF.

15. As required by National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**), the Filer presented the terms of the Merger which raise a conflict of interest for the purposes of NI 81-107 and the process proposed for completion of the Merger to GSB's Independent Review Committee (**IRC**) on November 1, 2017 for its review and recommendation. The IRC reviewed the proposed transactions and has determined that the proposed Merger, if implemented, would achieve a fair and reasonable result for GSB.

16. The board of directors of the Filer approved the Merger. A press release and notice of meeting in respect of the proposed Merger were filed on SEDAR on November 1, 2017. The Class A units of GSB continue to trade on the TSX.

17. Unitholders of GSB will be asked to approve the Merger at the special meeting (the **Meeting**) of the unitholders of GSB to be held on December 13, 2017. As SSF will be the continuing fund after the completion of the Merger and the Merger will not result in any changes to SSF for its current unitholders, SSF is not required under either applicable securities laws or the SSF Declaration of Trust to hold a special meeting of its unitholders in order to approve the Merger.

18. In connection with the Meeting, a notice of meeting and a management information circular and a related form of proxy (the **Meeting Materials**) were mailed to unitholders of GSB on November 22, 2017, and subsequently filed on SEDAR, in accordance with all applicable securities laws.

19. The Meeting Materials will provide unitholders of GSB with information about, among other things, basic information about each of GSB and SSF including redemption features, the management fees of SSF and the tax consequences of the Merger. The Meeting Materials will also describe the various ways in which unitholders can obtain a copy of the most recent interim and annual financial statements and management reports of fund performance for each of the Funds, at no cost. Accordingly, unitholders of GSB have an opportunity to consider this information prior to voting on the Merger.

20. A summary of the IRC's recommendation will be included in the Meeting Materials sent to unitholders of GSB as required by section 5.1(2) of NI 81-107.

21. Subject to receipt of unitholder approval, approval of the TSX and the Approval Sought, it is expected that the Merger will take place on or about February 8, 2018 (the **Merger Date**). If unitholder approval is not received at the Meeting, the Filer will review options for the future of GSB, including the possibility of a wind-up of GSB. SSF will continue to operate as it currently operates under the SSF Declaration of Trust.

22. If the necessary approvals are obtained, the following steps will be carried out to effect the Merger:

    (a) The Class A units of GSB will be delisted from the TSX on or about the Merger Date.

    (b) GSB will transfer all or substantially all of its net assets to SSF in consideration for the issuance by SSF to GSB of a number of units of SSF determined based on the Exchange Ratio (as defined herein) established as of the close of trading on the second business day immediately preceding the Merger Date. The exchange ratio (**Exchange Ratio**) will be calculated based on the relative net asset value of the units of GSB and the units of SSF.

    (c) Immediately following the transfer of the assets of GSB to SSF and the issuance of units of SSF to GSB, all units of GSB will be automatically redeemed and each holder of units of GSB participating in the Merger will receive such number and class of units of SSF as is equal to the number and class of units of GSB held multiplied by the Exchange Ratio.

    (d) Holders of class A or U units of GSB will become unitholders of the corresponding class of units of SSF.

    (e) Following the Merger, SSF will continue as a TSX-listed investment fund and GSB will be wound up as soon as reasonably practicable.

23. The Filer will pay all costs and reasonable expenses relating to the solicitation of proxies and holding the Meeting in connection with the Merger as well as the costs of implementing the Merger.

24. Pursuant to the GSB Declaration of Trust, unitholders of GSB will be permitted to exercise their annual redemption right prior to the Merger Date to require GSB to redeem their applicable units of GSB at their net asset value at the time of such redemption. In particular, unitholders of GSB surrendering their units for redemption on or before December 29, 2017 will have their units redeemed on January 30, 2018. Unitholders of GSB can wait until after the result of the Meeting is announced before choosing to exercise their annual redemption right.

25. No sales charges will be payable in connection with the acquisition by SSF of the investment portfolios of GSB.

26. The Merger will not be effected on a tax-deferred basis. On the Merger Date, GSB will dispose of its portfolio and other assets acceptable to SSF's sub-adviser for proceeds of disposition equal to the fair market value of those assets. As a result, GSB will realize a capital gain (or a capital loss) equal to the amount by which the proceeds of disposition of a particular portfolio asset exceed (or are exceeded by) the adjusted cost base of the particular portfolio asset, net of any reasonable costs of the disposition.

27. The Filer will not receive any compensation in respect of the acquisition, sale or redemptions of the units of SSF or GSB.

28. GSB and SSF have the same valuation procedures.

29. The portfolio and other assets of GSB to be acquired by SSF as a result of the Merger are currently, or will be, acceptable to the sub-adviser of SSF prior to the effective date of the Merger.

30. GSB and SSF are, and are expected to continue to be at all material times, mutual fund trusts under the *Income Tax Act* (Canada) (the **Tax Act**) and, accordingly, units of both GSB and SSF are "qualified investments" under the Tax Act for registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax free savings accounts.

31. The Filer believes that the Merger will be beneficial to unitholders of GSB for the following reasons:

    (a) SSF's annual distribution rate is approximately 6.7%, (based on the net asset value per class A unit of SSF) which represents an increase over GSB's annual distribution rate of 6.2% (as at November 13, 2017).

    (b) The management fee rate for SSF is 1.25% of net assets of SSF, as compared to GSB's effective management fee rate of approximately 1.55% of net assets of GSB.

    (c) The management expense ratios (excluding interest expense) for class A units and class U units of SSF are expected to be approximately 1.17% and 1.22% lower, respectively, than the management expense ratios of class A units and class U units of GSB. In addition, fixed annual operating costs of SSF will be spread across a larger base of assets, is expected to reduce operating costs on a per-unit basis and, correspondingly, should improve returns for unitholders of SSF.

    (d) Both the class A units of GSB and the class A units of SSF are listed for trading on the TSX under the symbols GSB.UN and SSF.UN, respectively. Throughout 2017 to November 13, 2017, class A units of SSF had a higher daily average trading volume of 13,611 compared to 3,016 for GSB's class A units on the TSX. Following the Merger, SSF, as the continuing fund, will have a larger market capitalization and a greater number of units and unitholders, which is expected to further improve liquidity for unitholders of both GSB and SSF.

    (e) The Filer anticipates that an improvement in the trading price of the class A units of GSB (relative to net asset value per class A unit of GSB) will provide a meaningful increase in value for unitholders of GSB. For the nine-month period ended September 30, 2017, GSB had an average daily trading discount of 2.6% in comparison to 0.8% for SSF.

    (f) GSB and SSF currently have similar investment mandates, which is the direct investment in, and active management of, a portfolio comprised primarily of fixed income securities and floating rate senior loans (GSB also invests in high dividend paying equities, preferred equities and other similar securities). Given the relatively small size of GSB, unitholders of GSB (net asset value of approximately $19.3 million as at November 13, 2017) would benefit from the additional liquidity and scale of a larger fund such as SSF (net asset value of approximately $112 million as at November 13, 2017).

    (g) Both GSB and SSF offer their respective unitholders the option to hold their units in class A units or, for those wishing to hold their investment in U.S. dollars, class U units. The Merger will allow unitholders of GSB invested in class A units or class U units of GSB to similarly hold class A units or class U units of SSF and maintain exposure to hedged or unhedged investments.

    (h) All costs of the Merger incurred by GSB will be borne by the Filer and not by GSB, SSF or either of their respective unitholders.

32. The foregoing reasons for the Merger will be set out in the Meeting Materials along with certain prospectus-level disclosure concerning SSF, including information regarding investment objectives and restrictions, the portfolio manager and risk factors applicable to an investment in SSF.

33. Approval from the Principal Regulator is required pursuant to subsection 5.5(1)(b) of NI 81-102 because the Merger satisfies the requirements for pre-approved reorganizations and transfers set out in subsection 5.6(1) of NI 81-102, except that:

    (a) the Merger is not a tax-deferred transaction as described in subsection 5.6(1)(b) of NI 81-102; and

    (b) a reasonable person would not consider GSB and SSF to have substantially similar investment objectives as required by subsection 5.6(1)(a)(ii) of NI 81-102.

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 Approval Sought is granted.

“Darren McKall”
Manager
Investment Funds and Structured Products
Ontario Securities Commission

2.1.12 Brookfield Renewable Partners L.P.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer requires relief from the requirement in Part 8 of National Instrument 51-102 Continuous Disclosure Obligations to file a business acquisition report – Acquisition is insignificant applying the asset and investment tests – Applying the profit or loss test produces an anomalous result 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 from a practical, commercial and financial perspective – Issuer has provided additional measures that demonstrate the insignificance of the acquisition to the issuer and that are generally consistent with the results when applying the asset and investment tests.

Applicable Legislative Provisions

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.
National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.3, 13.1.

December 15, 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
BROOKFIELD RENEWABLE PARTNERS L.P.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in the Jurisdiction (the **Decision Maker**) has received an application (the Application) from the Filer for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdiction (the **Legislation**) for relief from the requirement under Part 8 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) to file a business acquisition report (a **BAR**) in connection with the Filer's investment in TerraForm Power Inc. (**TerraForm Power**) on October 16, 2017, which together with the Filer's existing investment in TerraForm Power, represents a 51% interest in TerraForm Power (the **TerraForm Power Investment**).

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

(a) the Ontario Securities Commission is the principal regulator (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 each of the other provinces and territories of Canada.

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 in this decision.

Representations

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

The Filer

1. The Filer is an exempted limited partnership existing under the laws of Bermuda. The Filer was established on June 27, 2011 under the provisions of the *Exempted Partnerships Act 1992* of Bermuda and the *Limited Partnership Act 1883* of Bermuda. The Filer's head and registered office is located at 73 Front Street, 5th Floor, Hamilton, HM 12, Bermuda.

2. The Filer is a reporting issuer (or the equivalent thereof) under the securities legislation of each of the provinces and territories of Canada. The Filer is not in default of securities legislation in any jurisdiction of Canada.

The TerraForm Power Investment

3. The Filer is an investor in Brookfield Infrastructure Fund III (**BIF III**), a private infrastructure fund sponsored by BAM, which prior to the TerraForm Power Investment held an approximate 11.5% interest in TerraForm Power. The Filer indirectly held an approximate 3.3% proportionate interest in TerraForm Power on account of its investment in BIF III.

4. On October 16, 2017, the Filer completed the TerraForm Power Investment. After giving effect to the TerraForm Power Investment, the Filer and its institutional partners held a 51% interest in TerraForm Power and the Filer held a 16% proportionate interest in TerraForm Power (which includes the Filer's 3.3% proportionate interest held prior to the TerraForm Power Investment).

Application of the Significance Tests

5. Under Part 8 of NI 51-102, the Filer is required to file a BAR for any completed business 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.

6. The TerraForm Power Investment is not a significant acquisition under the asset test in section 8.3(2)(a) of NI 51-102 as the Filer's incremental proportionate share of the consolidated assets of TerraForm Power as at December 31, 2016 represented only approximately 3.8% of the Filer's total assets as at December 31, 2016.

7. The TerraForm Power Investment is not a significant acquisition under the investment test in section 8.3(2)(b) of NI 51-102 as the Filer's completed investments in and advances to TerraForm Power pursuant to the TerraForm Power Investment represented only approximately 0.7% of the Filer's total assets as at December 31, 2016.

8. The TerraForm Power Investment would, however, be a significant acquisition under the profit or loss test in section 8.3(2)(c) of NI 51-102 as the Filer's incremental proportionate share of the consolidated specified profit or loss of TerraForm Power for the twelve months ended December 31, 2016 represented approximately 20.9% of the consolidated specified profit or loss of the Filer for the twelve months ended December 31, 2016.

9. The application of the profit or loss test leads to an anomalous result in that the significance of the TerraForm Power Investment is exaggerated out of proportion to its significance on an objective basis and in comparison to the results of the asset test and the investment test.

10. For the purposes of completing its quantitative analysis of the asset test, investment test and profit or loss test, the Filer utilized TerraForm Power's financial statements which were prepared in accordance with U.S. generally accepted accounting principles and the Filer's financial statements which were prepared in accordance with International Financial Reporting Standards (**IFRS**). The differences between U.S. generally accepted accounting principles and IFRS would not be significant to the quantitative analysis presented in the Application.

The Significance of the TerraForm Power Investment from a Practical, Commercial and Financial Perspective

11. The Filer does not believe (nor did it at the time that it completed the TerraForm Power Investment) that the TerraForm Power Investment is significant to it from a practical, commercial and financial perspective.

12. The Filer has provided the principal regulator with additional operational measures that demonstrate the non-significance of the TerraForm Power Investment to the Filer. These operational measures compared generation (in GWh), generation capacity (in MW) and generation capacity (in MW in North America only) of the Filer's incremental proportionate interest in TerraForm Power 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.

13. The Filer is of the view that the asset test, the investment test and these alternative operational metrics much more closely reflect the actual significance of the TerraForm Power Investment to the Filer from a practical, commercial and financial perspective.

Decision

The Decision Maker 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 Maker under the Legislation is that the Exemption Sought is granted.

"Michael Balter"
Manager, Corporate Finance
Ontario Securities Commission

2.2 Orders

2.2.1 Aurora Cannabis Inc., CanniMed Therapeutics Inc. and The Special Committee of the Board of Directors of CanniMed Therapeutics Inc. – s. 104, 127

FILE NOS.: 2017-71
2017-73
2017-74

IN THE MATTER OF
AURORA CANNABIS INC.

AND

IN THE MATTER OF
CANNIMED THERAPEUTICS INC.

AND

IN THE MATTER OF
THE SPECIAL COMMITTEE OF
THE BOARD OF DIRECTORS OF
CANNIMED THERAPEUTICS INC.

D. Grant Vingoe, Vice-Chair and Chair of the Panel
Timothy Moseley, Vice-Chair
Frances Kordyback, Commissioner

December 13, 2017

ORDER
(Sections 104 and 127 of the
Securities Act, RSO 1990, c S.5)

WHEREAS on December 11, 2017, the Ontario Securities Commission (the "**Commission**") held a hearing in conjunction with the Financial and Consumer Affairs Authority of Saskatchewan (the "**FCAAS**") for the first attendance in the Application filed by Aurora Cannabis Inc. (the "**Aurora**"), dated December 4, 2017, File No. 2017-71 (the "**Aurora Application**"), in respect of a request for (i) an order granting exemptive relief from the requirements set forth in section 2.28.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("**NI 62-104**"), and (ii) an order to cease trade the shareholder rights plan between CanniMed Therapeutics Inc. ("**CanniMed**") and Computershare Investor Services Inc., dated November 28, 2017; and

WHEREAS on December 13, 2017, the Commission held a hearing in writing to consider preliminary issues raised in:

i) the Amended Application filed by the Special Committee of the Board of Directors of CanniMed (the "**Special Committee**"), dated December 11, 2017, File No. 2017-73 (the "**CanniMed Special Committee Application**"), in respect of a request for an order that, along with related relief, Aurora, Sask-Works Venture Fund Inc., Apex Investments Limited Partnership, Golden Opportunities Fund Inc., and Vantage Asset Management Inc. are deemed to be joint actors, as defined in Multilateral Instrument 61-101 *Protection of Minority Shareholders in Special Transactions*, and are acting jointly or in concert in connection with Aurora's unsolicited take-over bid to acquire all of the issued and outstanding common shares in the capital of CanniMed, pursuant to Aurora's take-over bid circular, dated November 24, 2017; and

ii) the Amended Application filed by CanniMed, dated December 11, 2017, File No. 2017-74 (the "**CanniMed Application**"), in respect of a request for an order that the exemption created by section 2.2(3) of NI 62-104 to the restrictions on purchases during a take-over bid found in section 2.2(1) of NI 62-104 shall not apply to Aurora Cannabis Inc. until (i) March 9, 2018, or (ii) if the Commission grants the relief sought in the CanniMed Special Committee Application, then 105 days after the date upon which a take-over bid circular that complies with insider bid rules is delivered to CanniMed's shareholders; and

ON HEARING the submissions of the representatives for Aurora, CanniMed, the Special Committee, Staff of the Commission and Staff of the FCAAS and on reading the Written Submissions of CanniMed dated December 11, 2017, the Written Submissions of the Special Committee, dated December 11, 2017, the Written Submissions of Aurora, dated December 12, 2017 and Joint Written Submissions of the Staff of the Commission and the Staff of the FCAAS, dated December 12, 2017;

IT IS ORDERED THAT:

1. The CanniMed Application and the CanniMed Special Committee Application will be heard jointly with the FCAAS, pursuant to subsection 3.5(2) of the *Securities Act*, RSO 1990, c S.5 and Rule 30 of Commission's *Rules of Procedure and Forms* (2017), 40 OSCB 8988 (the "**Commission's Rules**");

2. The joint hearings of the Aurora Application, the CanniMed Application and the CanniMed Special Committee Application (collectively, the "**Applications**") will be heard together and shall commence on December 20 and shall continue on December 21 and 22, at 9:00 a.m. (EDT) on each day, or such other dates as may be agreed to by the parties and set by the Office of the Secretary;

3. The Special Committee is granted intervenor status in the Aurora Application and the CanniMed Application, including the right to adduce evidence and make submissions, pursuant to Rule 21(4) of the Commission's Rules;

4. All direct evidence in the Applications shall be adduced by way of affidavit evidence;

5. All parties who file affidavit evidence shall make their affiants available for cross-examination by any adverse party at the hearings of the Applications;

6. Aurora shall serve and file the Applicant's Record in the Aurora Application, including any sworn affidavits being relied upon, by no later than December 14, 2017 at 12:00 pm (EDT);

7. CanniMed shall serve and file the Applicant's Record in the CanniMed Application and any Responding Record in the Aurora Application, including any sworn affidavits being relied upon, by no later than December 15, 2017 at 9:00 a.m. (EDT);

8. The Special Committee shall serve and file the Applicant's Record in the Special Committee Application and any Responding Record in the Aurora Application, including any sworn affidavits being relied upon, by no later than December 15, 2017 at 9:00 a.m. (EDT);

9. Aurora shall serve and file any Responding Records in the CanniMed Application and the Special Committee Application, and any reply affidavits in the Aurora Application, by no later than December 16, 2017 at 12:00 p.m. (EDT);

10. CanniMed shall serve and file any reply affidavits in the CanniMed Application by no later than December 18, 2017 at 9:00 a.m. (EDT);

11. The Special Committee shall serve and file any reply affidavits in the Special Committee Application by no later than December 18, 2017 at 9:00 a.m. (EDT);

12. Aurora, CanniMed and the Special Committee shall file their respective moving memoranda of law and books of authorities in all of the Applications by no later than December 18, 2017 at 9:00 p.m. (EDT);

13. Aurora, CanniMed and the Special Committee shall file their respective responding memoranda of law and books of authorities in all of the Applications by no later than December 19, 2017 at 12:00 p.m. (EDT); and

14. Staff of the Commission and Staff of the FCAAS shall serve and file their respective memoranda of law and books of authorities by no later than December 19, 2017 at 5:00 p.m. (EDT).

"D. Grant Vingoe"

"Timothy Moseley"

"Frances Kordyback"

2.2.2 Dennis L. Meharchand and Valt.X Holdings Inc. – s. 127(1)

File No. 2017-4

IN THE MATTER OF
DENNIS L. MEHARCHAND and
VALT.X HOLDINGS INC.

Timothy Moseley, Vice-Chair and Chair of the Panel
Deborah Leckman, Commissioner
Robert P. Hutchison, Commissioner

December 14, 2017

ORDER
Subsection 127(1) of the
Securities Act, RSO 1990, c S.5

WHEREAS on December 13, 2017, the Ontario Securities Commission (the **Commission**) held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the parties' request to conduct the merits hearing in this proceeding as a written hearing; and

ON HEARING the submissions of the representative for Staff of the Commission (**Staff**), and of Dennis L. Meharchand and Valt.X Holdings Inc. (the **Respondents**) appearing by telephone;

IT IS ORDERED THAT:

1. Pursuant to Rule 20 of the Commission's *Rules of Procedure and Forms* (2017), 40 OSCB 8988, the Panel directs that a confidential conference shall be held on December 18, 2017 at 2:00 p.m., and the parties may, but are not required to, file materials with the Registrar in advance for use at the confidential conference, which materials shall remain confidential;

2. The final interlocutory appearance on December 18, 2017 and the merits hearing dates of January 15, 16, 22, 24, 25, 26, 29, 30, and 31 and February 1 and 2, 2018, are vacated;

3. The merits hearing shall be heard on such dates as may be fixed by further order of the Commission, or agreed to by the parties and set by the Office of the Secretary;

4. The direct evidence for the merits hearing shall be adduced by way of affidavits;

5. All parties who file affidavits evidence shall make their affiants available for cross-examination by any adverse party at the merits hearing;

6. The parties shall adhere to the following timeline for the delivery of materials for the merits hearing:

   a. Staff shall serve and file its affidavit evidence, memorandum of law and brief of authorities by January 8, 2018;

   b. the Respondents shall serve and file their affidavit evidence, memorandum of law and brief of authorities by January 29, 2018; and

   c. Staff shall serve and file reply materials, if any, by February 5, 2018.

"Timothy Moseley"

"Deborah Leckman"

"Robert P. Hutchison"

2.2.3 Dennis Wing

IN THE MATTER OF
DENNIS WING

Janet A. Leiper, Commissioner, Chair of the Panel

December 14, 2017

ORDER

IT IS ORDERED THAT the second appearance in this matter will be heard on January 3, 2018, at 10:00 a.m., or such other date as may be agreed to by the parties and set by the Office of the Secretary.

"Janet Leiper"

2.2.4 Polaris Materials Corporation

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – The securities of the issuer are beneficially owned by not more than 50 persons and are not traded through an exchange or market – The issuer is not an OTC reporting issuer; the securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders worldwide; no securities of the issuer are traded on a market in Canada or another country; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents

Applicable Legislative Provisions

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

November 28, 2017

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

AND

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

AND

IN THE MATTER OF
POLARIS MATERIALS CORPORATION
(the Filer)

ORDER

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Makers) 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 British Columbia 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 Alberta,

Saskatchewan, Manitoba, Quebec, 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

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

Representations

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

1. Polaris Materials Corporation (Polaris) was originally incorporated under the *Business Corporations Act* (British Columbia) on May 14, 1999;

2. on November 17, 2017 all of the Common Shares of Polaris were acquired by 1134771 B.C. Ltd., by way of a plan of arrangement (the Arrangement) under the *Business Corporations Act* (British Columbia) in consideration for $3.40 per Common Share;

3. on November 17, 2017, following the acquisition of all of the Common Shares of Polaris by 1134771 B.C. Ltd., Polaris amalgamated with its sole shareholder, 1134771 B.C. Ltd., under the *Business Corporations Act* (British Columbia) with the amalgamated company, being the Filer, continuing under the name Polaris Materials Corporation;

4. the Filer's authorized share capital consists of an unlimited number of common shares (Common Shares);

5. there are 100 Common Shares issued and outstanding, all of which are owned by U.S. Concrete, Inc.;

6. the Filer has no securities issued and outstanding other than as set out in paragraph 5;

7. the Common Shares were delisted from the Toronto Stock Exchange on November 20, 2017;

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

9. 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;

10. 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;

11. 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;

12. the Filer is not in default of securities legislation in any jurisdiction, other than an obligation of Polaris to file on or before November 14, 2017 its interim financial statements and related management's discussion and analysis for the interim period ended September 30, 2017 as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certi-ficates as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings); and

13. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as it is in default for failure to file the Filings.

Order

4 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.

"Andrew S. Richardson, CPA, CA"
Acting Director, Corporate Finance
British Columbia Securities Commission

2.2.5 Sino-Forest Corporation et al.

IN THE MATTER OF
SINO-FOREST CORPORATION,
ALLEN CHAN,
ALBERT IP,
ALFRED C.T. HUNG,
GEORGE HO,
SIMON YEUNG and
DAVID HORSLEY

D. Grant Vingoe, Vice-Chair and Chair of the Panel
Deborah Leckman, Commissioner
Garnet W. Fenn, Commissioner

December 18, 2017

ORDER

WHEREAS an appearance for the purpose of scheduling the sanctions and costs hearing and any other preliminary matters is scheduled for December 19, 2017 at 10:00 a.m.;

ON CONSIDERING the proposed schedule for the completion of the sanctions and costs hearing from the representatives for Staff of the Commission and Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho, and Simon Yeung on December 15 and 18, 2017;

IT IS ORDERED THAT:

1. The hearing date of December 19, 2017 is vacated;

2. The hearing with respect to sanctions and costs will continue on January 18 and 19, 2018 at the Offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, beginning at 10:00 a.m., for the purpose of the qualification and cross-examination of an expert witness and, if required, for any further cross-examinations on affidavit evidence;

3. Staff shall serve and file any written submissions on sanctions and costs by February 12, 2018;

4. The Respondents shall serve and file any written submissions on sanctions and costs by March 9, 2018;

5. Staff shall serve and file any reply submissions on sanctions and costs by March 19, 2018; and

6. The hearing with respect to sanctions and costs will continue on March 26, 27 and 28, 2018 for the purpose of hearing oral submissions of the parties.

“D. Grant Vingoe”

“Deborah Leckman”

“Garnet W. Fenn”

2.2.6 Dennis L. Meharchand and Valt.X Holdings Inc. – s. 127(1)

File No. 2017-4

IN THE MATTER OF
DENNIS L. MEHARCHAND and
VALT.X HOLDINGS INC.

Mark J. Sandler, Commissioner

December 18, 2017

ORDER
Subsection 127(1) of the
Securities Act, RSO 1990, c S.5

WHEREAS on December 18, 2017, the Ontario Securities Commission (the **Commission**) held a confidential conference at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, and

ON HEARING the submissions of the representative for Staff of the Commission and of Dennis L. Meharchand on his own behalf and on behalf of Valt.X Holdings Inc., appearing in person;

IT IS ORDERED THAT pursuant to Rule 20 of the Commission’s *Rules of Procedure and Forms* (2017), 40 OSCB 8988, a confidential conference shall be held on January 12, 2018 at 2:00 p.m., and the parties may, but are not required to, file materials with the Registrar in advance for use at the confidential conference, which materials shall remain confidential.

“Mark J. Sandler”

2.2.7 TCM Investments Ltd. et al. – ss. 127(1), 127.1

IN THE MATTER OF
TCM INVESTMENTS LTD.
carrying on business as OPTIONRALLY,
LFG INVESTMENTS LTD.,
AD PARTNERS SOLUTIONS LTD. and
INTERCAPITAL SM LTD.

Timothy Moseley, Vice-Chair and Chair of the Panel

December 18, 2017

ORDER
Subsection 127(1) and Section 127.1 of the
Securities Act, RSO 1990, c S.5

WHEREAS on November 15, 2017, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the appropriate sanctions arising as a result of the Commission's finding that each of the Respondents contravened the *Securities Act*, RSO 1990, c S.5 (the **Act**) by engaging in the conduct alleged in paragraph 17 of the Statement of Allegations dated August 24, 2017; and

ON READING the Submissions of Staff of the Commission Respecting Sanctions and Costs dated October 31, 2017 and the Supplementary Submissions of Staff of the Commission Respecting Sanctions dated November 28, 2017 and on hearing the submissions of the representative for Staff of the Commission, no one appearing for the Respondents;

IT IS ORDERED THAT:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by the Respondents shall cease permanently;

2. Pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by the Respondents is prohibited permanently;

3. Pursuant to paragraph 3 of subsection 127(1) of the Act, the exemptions contained in Ontario securities law do not apply to the Respondents permanently;

4. Pursuant to paragraph 8.5 of subsection 127(1) of the Act, the Respondents are prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

5. Pursuant to paragraph 9 of subsection 127(1) of the Act, the Respondents, jointly and severally, shall pay to the Commission an administrative penalty of $100,000, which amount shall be designated for allocation or use by the Commission in accordance with paragraphs b(i) or (ii) of subsection 3.4(2) of the Act;

6. Pursuant to paragraph 10 of subsection 127(1) of the Act, TCM Investments Ltd. shall disgorge to the Commission $100,000, which amount shall be designated for allocation or use by the Commission in accordance with paragraphs b(i) or (ii) of subsection 3.4(2) of the Act; and

7. Pursuant to section 127.1 of the Act, the Respondents shall pay $30,298.75 to the Commission to reimburse the costs of the investigation and hearing, for which they shall be jointly and severally liable.

"Timothy Moseley"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Omega Securities Inc. – s. 127(5)

IN THE MATTER OF
OMEGA SECURITIES INC.

REASONS ON APPLICATION FOR A TEMPORARY ORDER
(Subsections 127(5) of the *Securities Act*, RSO 1990, c S.5)

Citation: *Omega Securities Inc. (Re)*, 2017 ONSEC 42
Date: 2017-12-14
File No.: 2017-64

Hearing:	November 17, 20 and 21, 2017	
Decision:	December 14, 2017	
Panel:	Mark J. Sandler	Chair of the Panel
	AnneMarie Ryan	Commissioner
	Deborah Leckman	Commissioner
Appearances:	Keir Wilmut	For Staff of the Commission
	Eliot Kolers Sinziana Hennig	For Omega Securities Inc.

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REASONS FOR DECISION

I. INTRODUCTION

[1] Omega Securities Inc. (**OSI**) is an Ontario corporation founded in 2007. It is based in Toronto, and is a registered dealer, regulated by the Commission and by IIROC. It operates two alternative trading systems (**ATS** or **ATSs**): Omega ATS (commencing in 2007) and Lynx ATS (commencing in 2014). An ATS is an alternative marketplace, distinguished from a traditional exchange. It is defined in subsection 1(1) of the *Securities Act* RSO 1990, c S.5 (the **Act**).

[2] ATSs are governed by the regulatory framework set out, in part, in the Act, as well as in National Instrument 21-101 **(NI 21-101**), which is made pursuant to section 143 of the Act.

[3] According to IIROC, Omega ATS has about 5% market share of Canadian equities trading. It meets the regulatory threshold as a protected marketplace for the purposes of the Commission's "Order Protection Rule"[1], meaning that a better priced visible order on Omega ATS must generally be executed before an inferior priced order on another marketplace. Lynx ATS has about 0.5% market share and does not qualify as a protected marketplace. Together, they serve over 60 subscribers and over 650 direct access clients of those subscribers.

[4] On November 14, 2017, Staff filed an application for a temporary order (the **Application**) alleging that OSI may have breached Ontario securities law in the following ways:

a. Disseminating inaccurate post-trade information by reversing the buyer broker identification and the seller broker identification for mid-point peg transactions (defined below in paragraph [39]) when the buyer was active (that is, when the buyer's order was matched with a previously entered sell order) in relation to transactions executed on its marketplaces, in breach of subsection 7.2(1) and subparagraph 11.2(1)(d)(vi) of NI 21-101;

b. Making information regarding trades available to a person or company prior to making it available to the information processor, in breach of subsections 7.1(3) and 7.2(2) of NI 21-101;

c. Failing to disseminate accurate information to the information processor as a result of market participants and regulators receiving different data via different ports or feeds of OSI, in breach of subsection 7.2(1) and Part 11 of NI 21-101;

d. Failing to accurately disseminate to the information processor the time in milliseconds a transaction was executed, in breach of subsection 7.2(1) and subparagraph 11.2(1)(d)(iv) of NI 21-101;

e. Failing to accurately capture and disseminate the time in milliseconds that an order was first originated or received by Omega ATS or Lynx ATS, in breach of subsection 7.1(1) and subparagraph 11.2(1)(c)(xi) of NI 21-101; and

f. Engaging in conduct contrary to the public interest.

[5] Staff acknowledges that OSI rectified the breach identified in (a) above in June 2016, but alleges that the remaining breaches are ongoing. Accordingly, it seeks a temporary order, pursuant to subsection 127(5) of the Act that the registration of OSI be suspended and that trading in any securities by OSI cease until the conclusion of the hearing on the merits, or such other time as ordered by the Commission.

[6] On November 16, 2017, Staff filed a Statement of Allegations against OSI. The hearing into those allegations formally commenced through the issuance of a Notice of Hearing which specified an initial hearing date on November 17, 2017. It is not expected that the hearing on the merits of these allegations will be completed for a number of months. A hearing on the merits, if contested, will only follow Staff's disclosure of all relevant information in its possession, the exchange of relevant documents and witness particulars, the evidence and submissions presented to a hearing panel, and the panel's decision or decisions.

[7] Staff submits that the time required to conclude a hearing on the merits could be prejudicial to the public interest, and that, in the circumstances, the requested temporary order is necessary in the public interest.

[8] OSI forcefully denies that it has violated Ontario securities law, but submits that, in any event, any violations have been rectified or are in the process of being rectified. It further contends that any alleged violations are not so serious as to

[1] Part 6 of National Instrument 23-101 – *Trading Rules* (**NI 23-101**).

justify the exceptional order sought by Staff, which would not only irreparably damage OSI in the short term, but would also make it highly unlikely that OSI could ever recover.

[9] Staff tendered the evidence of two witnesses, Alexandru Badea, Investigator, Enforcement Branch of the Commission and Gregory Ljubic, Senior Investigation Counsel, Enforcement Branch of the Commission, initially by affidavit and supplemented by their oral testimony. Each was cross-examined by counsel for the respondent.

[10] OSI tendered the evidence of three witnesses, two initially by affidavit, with all providing oral testimony. These were Raymond Tung, Chief Operating Officer of OSI, Sean Debotte, Chief Executive Officer of OSI and Dr. Liam Cheung, Chief Executive Officer and Chief Compliance Officer of Tactex Asset Management Inc. Dr. Cheung is also a shareholder of OSI. All were cross-examined by Staff.

[11] Staff sought to introduce the affidavit of Tracey Stern, Manager, Market Regulation Branch of the Commission in reply. In our view, paragraph 17 of Ms. Stern's affidavit simply reflected her opinion as to the merits of the Application and was not appropriately before us. Further, the balance of the affidavit did not constitute reply evidence and, in any event, the proposed evidence was largely captured in the evidence already relied upon by Staff. Accordingly, we did not allow the affidavit to be introduced into evidence.

[12] Much of the evidence was uncontroverted or became so as the testimony developed. In large measure, the most significant factual dispute between the parties related to the significance or impact of any deficiencies identified by Staff to or on the capital markets and investors. Staff alleges that continuing deficiencies, most particularly in how times of orders and times of execution of trades are recorded and disseminated, undermine the integrity of the marketplace, and compel the order requested. OSI contends that the vast majority of the times recorded and disseminated are accurate, even by its regulators' standards, and that deviations are almost invariably measured in several milliseconds only, which are irrelevant.

[13] In these reasons, we have reminded ourselves that we are not deciding on the ultimate merits of Staff's allegations, and accordingly, only refer to such evidence and only make those findings necessary to address the Application.

[14] For the reasons that follow, we concluded that Staff did not meet its burden of demonstrating that a temporary order suspending OSI's registration and requiring OSI to cease trading was in the public interest. On the other hand, we found that it was in the public interest that some terms and conditions be placed on OSI's registration. By placing terms and conditions on OSI's registration, we sought to give Ontario's capital markets notice of the issues identified at the hearing and encourage OSI to resolve those issues in an expeditious manner.

[15] On November 23, 2017, we issued our order to that effect. Pursuant to s. 127(6) of the Act, our order took effect immediately and expired on December 8, 2017, the fifteenth day after its making, unless extended by the Commission. Our temporary order has since been extended to January 29, 2018, on consent of the parties.

[16] These are the reasons for our decision.

II. THE LAW

[17] Subsection 127(5) of the Act states:

> Despite subsection (4), if in the opinion of the Commission the length of time required to conclude a hearing could be prejudicial to the public interest, the Commission may make a temporary order under paragraph 1, 2, 2.1 or 3 of subsection (1) or subparagraph ii of paragraph 5 of subsection (1).

[18] It follows that a temporary order may only be made if the Commission concludes that the length of time required to conclude a hearing could be prejudicial to the public interest. If that precondition is met, the Commission may only make one or more of the orders contemplated by paragraphs 1, 2, 2.1 or 3 of subsection (1) or subparagraph ii of paragraph 5 of subsection (1). For convenience, these possible orders are reproduced here:

> 1. An order that the registration or recognition granted to a person or company under Ontario securities law be suspended or restricted for such period as is specified in the order or be terminated, or that terms and conditions be imposed on the registration or recognition.
>
> 2. An order that trading in any securities by or of a person or company or that trading in any derivatives by a person or company cease permanently or for such period as is specified in the order.

> 2.1 An order that the acquisition of any securities by a particular person or company is prohibited permanently or for the period specified in the order.
>
> 3. An order that any exemptions contained in Ontario securities law do not apply to a person or company permanently or for such period as is specified in the order.
>
> …
>
> 5. If the Commission is satisfied that Ontario securities law has not been complied with, an order that a release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular, offering memorandum, proxy solicitation or any other document described in the order,
>
> …
>
> ii. not be provided by a market participant to a person or company,

[19] The availability of temporary orders under the Act recognizes that a "regulatory agency charged with oversight of the capital markets must have the capacity to move quickly to stop transactions which it considers to be injurious to the capital markets." Subsection 127(5) of the Act, as well as the power to extend temporary orders contained in subsections (7) and (8), assist in ensuring that the Commission is able to intervene in both a timely and an effective manner to protect investors and the capital markets.[2]

[20] The authority to issue a temporary order is directly related to the Commission's statutory mandate set out in section 1.1 of the Act to provide protection to investors from unfair, improper or fraudulent practices; and to foster fair and efficient capital markets and confidence in those markets.[3]

[21] Here, Staff seeks an order suspending OSI's registration and requiring OSI to cease trading for a period potentially of indefinite duration. On the available evidence, we accept that this order, if granted, would likely cause irreparable harm to OSI both short-term and long-term.

[22] The jurisprudence establishes that, in order for Staff's Application to succeed, Staff bears the burden of demonstrating that a three-part test has been met: namely,

a. the allegation(s) made must be serious;

b. there must be *prima facie* evidence supporting the allegation(s); and

c. the public interest must favour granting this extraordinary remedy.

[23] It is clear (and reinforced by the language contained in the third prong of that test) that the issuance of a temporary cease trade order is an extraordinary remedy and one that should not be exercised lightly.[4] The Commission has also said that "[t]o obtain a temporary cease trade order, the party requesting such an order has a heavy onus to provide sufficient evidence to support issuing such an order in the public interest."[5] Nonetheless, the evidence required may fall short of that which Staff would be required to produce at a hearing on the merits, but must amount to more than mere suspicion or speculation.[6]

[24] The requirement that there must be *prima facie* evidence supporting the allegation is perhaps an imperfect way of describing the nature and quality of the evidence sufficient to justify a temporary order. Indeed, in other contexts, including criminal law, courts have used the phrase "*prima facie* evidence" or a "*prima facie* case" in inconsistent ways. For example, it has been used to describe the test for a non-suit or directed verdict, a test which generally involves no assessment of credibility or reliability, but simply a determination of whether there is some evidence which, if accepted, would support the case being advanced. It has also been used to describe a test which involves some threshold assessment of credibility or reliability in determining whether there is a case to meet.

[25] In our view, the phrase should be interpreted in the context of an application pursuant to subsection 127(5) of the Act to mean that:

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2 *Re Doulis* (2011), 34 OSCB 9597 (***Doulis***) at paras 23 and 24, citing *Canadian Tire Corp. (Re)* 1987, 10 OSCB 857 at para 127.
3 *Re Western Wind Energy Corp.* (2013), 36 OSCB 6749 (***Western Wind***) at para 9.
4 *Western Wind* at para 10.
5 *Western Wind* at para 11.
6 *Western Wind* at para 11.

a. the available evidence supports the material parts of the allegation(s) made by Staff; and

b. in the opinion of the Commission, the evidence appears to be credible and reliable, having regard to all of the circumstances, including its source, detail, and the presence or absence, at this preliminary stage, of any explanations or evidence that may contradict it.

[26] This interpretation accords with how the phrase has been applied in the past. The parties did not take issue with this interpretation.

[27] Ultimate determinations of credibility or reliability are not to be made on an application for a temporary order. Those are to be made by a hearing panel when the hearing on the merits takes place. Equally, even if the evidence presented is credible or reliable, ultimate determinations as to whether that evidence is sufficient, in fact or in law, to prove Staff's allegations are to be made when the hearing on the merits takes place.

[28] Unlike the test for injunctive relief, the existence or absence of irreparable harm does not constitute one of the three components of the applicable test. This reflects the overriding public interest which must guide the Commission's decision. However, the existence of irreparable harm may nonetheless play a significant role in determining whether it is in the public interest to make the requested order. In *Re Valentine* (2002), 25 OSCB 5329 (***Valentine***) at p 5331, this point is explained:

> In *Biller v British Columbia (Securities Commission)*, [1998] B.C.J. No. 451 (BCCA), the BCSC had made a temporary order against Mr. Biller. Mr. Biller alleged that a temporary order was akin to an injunction and, as such, the BCSC erred in failing to consider the tests of irreparable harm and balance of convenience. At paragraph 11 the BCCA stated:
>
> > The submission is, in my view, misconceived. **Temporary orders under the Act undoubtedly have much the same effect as interlocutory injunctions but are fundamentally different in that they are based upon statutory provisions which empower the orders to be made if the Commission or executive director "considers it to be in the public interest"** [Emphasis added in original]. To apply the tests applicable to common law injunctions to the exercise of that power would create a confusion of concepts. **One may expect that the Commission will have due regard to the potential for harm to those who are subjects of the orders and reasonable regard to the convenience of any persons who might be affected by them** [Emphasis added in our reasons]. **But, because the basic issue is whether it is in the public interest to make the order, the matters to be balanced are different.** [Emphasis added in original]
>
> ... Having regard to the legislative scheme as contained in s. 127, as well as the length of time required to conclude a hearing in this matter, we must satisfy ourselves, at this time, that there is sufficient evidence of conduct which may be harmful to the public interest.
>
> In exercising its regulatory authority, the Commission should consider all of the facts including, as part of its sufficiency consideration, the seriousness of the allegations and the evidence supporting them. The Commission should also consider any explanations or evidence that may contradict such evidence. **This will allow it to weigh the threat to the public interest against the potential consequences of the order.** [Emphasis added in original]

III. THE ARCHITECTURE OF OSI'S TRADING ENVIRONMENT

[29] What follows is a quick overview of OSI's systems architecture.

[30] When an order is sent to OSI (OSI uses the same trading system for orders placed on Lynx ATS and Omega ATS), it enters OSI's trading environment through one of two gateways, which then check the order to ensure it conforms to OSI's order entry specifications. If the order is compliant, the order originator receives an acknowledgement via OSI's FIX Feed (described below), which includes, among other information, the time at which the order was received by the gateway. The degree of precision of the times conveyed (i.e. whether to the level of seconds or milliseconds) is discussed below.

[31] The order is then passed from the gateway to the matching engine, in sequential order. The original time stamp of receipt of the order is not passed to the matching engine, which is a software program that is intended to ensure the orders are executed at the best price. If an order is not immediately executed, it is held by the matching engine and placed into the order book for future trade execution.

[32] OSI uses multiple data feeds to disseminate information with respect to orders and executions:

a. The **ITCH Feed** disseminates data to the public, including to the TMX Information Processor (**TMX IP**), which consolidates and disseminates order and trade information to market participants, and data vendors. The ITCH Feed utilizes the ITCH 3.0 protocol to transmit data. The ITCH Feed includes data both with respect to orders, and executed trades. Data from the ITCH Feed is disseminated to the public via three ports: Port 4002, Port 4005 and Port 4006. Port 4002 disseminates data from Lynx ATS, while Ports 4005 and 4006 disseminate data from Omega ATS;

b. The **MRF Feed** disseminates data to IIROC, OSI's regulation services provider. It utilizes the FIX 5.2 protocol to transmit data. Included in the MRF Feed is data relating to orders and executed trades, as well as additional information, such as trader identification and regulatory markers required for regulatory oversight, not present in the other feeds; and

c. The **FIX Feed** disseminates data using the Fix 4.2 protocol. It sends information to trade execution systems, including order acknowledgements to the order originator, as well as authorized "drop copies" of the FIX Feed. The Canadian Depository for Securities (**CDS**) also receives trade execution records via the FIX Feed. OSI keeps a complete record of the FIX Feed.

[33] When a trade execution has occurred in the matching engine, the time of execution is recorded and details of the trade are then passed to the feeds. The time of execution is maintained on the FIX Feed. However, the time of execution in the matching engine is replaced when processed by the ITCH Feed and the MRF Feed and the trade execution is assigned a new "time label", which reflects the time at which the information is disseminated by the feeds.

IV. SHOULD AN ORDER SUSPENDING OSI'S REGISTRATION AND REQUIRING OSI TO CEASE TRADING BE MADE?

[34] To answer this question, we apply the three-pronged test set out in paragraph [22] above.

A. Are the allegations serious?

[35] As earlier indicated, Staff contends that the deficiencies and inaccuracies identified in how orders and trades are recorded and disseminated by OSI are serious, in that they undermine the integrity of Ontario's capital markets and investor confidence. Staff also submits that OSI's failure to meet its information requirements has prevented regulators from effectively protecting investors.

[36] OSI acknowledges that, framed in this way, the allegations sound serious indeed. However, it contends that there is a disconnect between how those allegations are framed, and the nature of the deficiencies and inaccuracies actually at issue.

[37] In our view, OSI's contention is better addressed in the context of deciding whether a *prima facie* case exists to support some or all of Staff's allegations. In our view, while some of the allegations are less serious than others, it is fair to say that the allegations, while not at the highest end of the spectrum of seriousness, are sufficiently serious to trigger examination of the other prongs of the test for a temporary order. The allegations, if meritorious, relate to violations of provisions which represent important parts of Ontario securities law and protect the integrity of the capital markets, and which are directly connected to the Commission's statutory mandate set out in section 1.1 of the Act.

B. Is there *prima facie* evidence supporting the allegations?

[38] This step of the test requires that the Panel assess the evidence in relation to each of the allegations made by Staff of possible breaches of Ontario securities law committed by OSI. First, we address those allegations of possible breaches made by Staff which ultimately do not support the making of a temporary order, before turning the the balance of the allegations.

1. Disseminating inaccurate post-trade information by reversing the buyer broker identification and the seller broker identification for mid-point peg transactions

[39] **Mid-point peg orders** are dynamic, hidden orders which rest at the mid-point between the National Best Bid and Offer (**NBBO**). Since this type of order is hidden, or dark, a mid-point peg order is not disseminated until there is a trade execution.

[40] When a mid-point peg order is executed as part of a trade within OSI's trading system, information regarding the trade, including the identification numbers (**IDs**) of the brokers involved, is disseminated to the public via OSI's ITCH Feed.

The Panel heard evidence that other marketplaces identify parties involved in such trades with terms such as "broker" and "contra broker"; however, OSI's ITCH Technical Specification Guide uses the terms "Buyer Broker" and "Seller Broker".

[41] In the course of its investigation, Staff identified over 65,000 trades in which OSI had reversed the ID numbers of the Buyer Broker and the Seller Broker on its ITCH Feed. This occurred over a three year period beginning in July 2013, when OSI introduced the option for users to enter mid-point peg orders. Staff submits that this may be a breach of subsection 7.2(1) and subparagraph 11.2(1)(d)(vi) of NI 21-101, which provide that a marketplace must provide accurate and timely information regarding trades to an information processor and maintain a record of the identity of the participants on each side of a trade.

[42] OSI submits that it switched the IDs as a result of an incorrect belief that the Buyer Broker ID and the Seller Broker ID were reversed as a matter of industry practice. In June 2016, IIROC and Staff informed OSI of the issue, after having been notified about the problem by a member of the public. OSI engaged software developers to fix the issue. Mr. Debotte testified that it took approximately two weeks for this issue to be rectified.

[43] In the Application, Staff acknowledges that this issue had already been resolved by OSI.

[44] Accordingly, while the Panel was provided with evidence in support of this allegation, Staff does not rely upon it to justify the need for a temporary order. We agree with that assessment.

2. Making information available regarding trades to a person or company prior to it making that information available to the information processor

[45] Staff alleges that due to some of the processing involved in its formatting, latency is sometimes introduced into the ITCH Feed, resulting in subscribers to the FIX Feed receiving information regarding trades prior to subscribers to the ITCH Feed, including the TMX IP. As a result of disseminating this information to others prior to disseminating it to the TMX IP, Staff alleges that OSI may be breaching subsections 7.1(3) and 7.2(2) of NI 21-101, which require a marketplace not to make information regarding orders or trades available to any person or company before it makes it available to an information processor.

[46] More particularly, Staff asserts that the processing involved in formatting the ITCH Feed includes the addition of a time label and, until rectified in June 2016, the switching of the Buyer and Seller Broker IDs. Staff contends that these steps resulted in latency being introduced to the ITCH Feed. A more detailed description of how and why a time label is added is given later in these reasons. Staff contends that because this same processing does not occur for the FIX Feed, information transmitted via the FIX Feed would necessarily become available to subscribers of that feed before it became available to subscribers of the ITCH Feed.

[47] OSI strenuously maintains that this is not the case, and that this allegation by Staff is based on "sheer speculation". It submits that Staff has failed to present any evidence that any one of the feeds is faster than another. It also notes that one of the causes of latency asserted by Staff, the switch of the Broker IDs, has not been in place since June 2016.

[48] It further submits that the efficiency of the ITCH 3.0 protocol compared to the FIX 4.2 protocol means that if any feed is indeed slower, it should be the FIX Feed. Dr. Cheung testified that the FIX Feed is an inefficient feed because it "carries a huge amount of redundant information that reduces its efficiency, both in terms of how much bandwidth it requires and how much time it takes for a matching engine or a FIX server to be able to compose the messages". By comparison, he described the format of the ITCH Feed as "far more efficient".

[49] Mr. Debotte testified that OSI has also recently installed two new "10-gigabyte" lines which it now uses to transmit data pursuant to the ITCH Feed, though Staff contends that the speed at which information travels after it leaves OSI does not address the issue identified here.

[50] In his evidence, Mr. Tung stated that OSI employed a "sniffer" to attempt to determine whether any feed was indeed sending messages with respect to the same information at a different time than another and that the sniffer confirmed that this was not occurring.

[51] In its closing argument, Staff submitted that no information had been given to the Panel confirming the results of this testing and that Staff continues to have concerns regarding latency in the ITCH Feed vis-à-vis the FIX Feed.

[52] OSI also noted that the FIX Feed primarily disseminates information back to the originator of the order. It contends that the allegation that OSI has been disseminating information to subscribers before making that information available to the information processor has had a detrimental effect on OSI's business activities since the allegation, as framed, has left the impression that OSI is selectively favouring some subscribers over others.

[53] Based on the existing record, we are not satisfied that a *prima facie* case has been made out in support of this allegation. We agree that the evidence, at this stage, on this point is fairly characterized as speculative.

3. Content discrepancies across OSI's data feeds

[54] During its investigation, Staff discovered that information regarding trades sent via the ITCH Feed was not always identical with respect to its two computer ports (Port 4005 and Port 4006). It also discovered that the information regarding trades sent to IIROC pursuant to the MRF Feed was not always identical to the information sent to the public via the ITCH Feed.

[55] Staff contends that, as a result, OSI may have breached sections 7.1, 7.2 and 11.2 of NI 21-101, which require a marketplace to provide accurate and timely information regarding orders and trades to an information processor, and to keep records of those orders and trades.

[56] More particularly, Staff's allegation is based upon its discovery during its investigation that, on some days, certain orders or trades were not included on the ITCH Feed from one port, but were included on the ITCH Feed from the other port. Similarly, Staff discovered that, on some days, the number of orders or trades disseminated on the MRF Feed differed from the number of orders or trades disseminated on the ITCH Feed. Staff submits that the information sent via each of the ITCH Feed's two ports and the information sent via the MRF Feed should be identical (other than the added categories of information which IIROC requires to be sent to it).

[57] OSI submits that Staff has only identified, in the evidence presented, five trading days on which there was a discrepancy in the information disseminated on the two different ITCH Feed ports or as between the MRF and ITCH Feeds. Two of those days recorded fewer than 10 discrepancies out of millions of messages. With respect to the three other days, OSI experienced known systems difficulties, which were addressed according to procedures used by IIROC and were resolved to IIROC's satisfaction. Simply put, it is OSI's position that the existing regulatory regime recognizes that systems failures can occur without enforcement implications, and that Staff failed to determine to what extent the identified discrepancies were events reported to, and addressed by, IIROC. In any event, OSI maintains that some tolerance for discrepancies is inherent in any regulation of systems, and that these discrepancies have not been shown to be so substantial or frequent as to demonstrate true non-compliance.

[58] The existence of the discrepancies identified by Staff was not contested by OSI at the temporary order hearing. A reasonable inference available to a hearing panel is that information sent via two computer ports should be identical, as should information sent pursuant to two different Feeds. Another reasonable inference available to a hearing panel is that the nature and extent of the discrepancies identified here are sufficient to establish non-compliance with National Instrument 21-101. To be clear, a hearing panel may or may not draw these inferences on the totality of the evidence available to it. But we are satisfied that a *prima facie* case exists in support of this allegation.

[59] That being said, the limitations on the evidence, identified by OSI and described briefly above, are relevant to whether Staff has shown that the requested temporary order is required in the public interest. The evidence presented to us leaves the record unclear as to how significant these deficiencies are, and the extent to which they are typical or atypical for comparable marketplaces.

4. Failing to accurately capture and disseminate time

[60] Staff alleges that OSI may be breaching various provisions relating to the capture and dissemination of time with respect to orders or trade executions. For convenience, the relevant provisions are set forth below.

> **7.1 Pre-Trade Information Transparency - Exchange-Traded Securities**
>
> (1) A marketplace that displays orders of exchange-traded securities to a person or company must provide accurate and timely information regarding orders for the exchange-traded securities displayed by the marketplace to an information processor as required by the information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider.
>
> **7.2 Post-Trade Information Transparency - Exchange-Traded Securities**
>
> (1) A marketplace must provide accurate and timely information regarding trades for exchange-traded securities executed on the marketplace to an information processor as required by the information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider.

11.2 Other Records

(1) As part of the records required to be maintained under section 11.1, a marketplace must include the following information in electronic form:

…

(c) a record of each order which must include

…

(xi) the date and time the order is first originated or received by the marketplace,

…

(d) in addition to the record maintained in accordance with paragraph (c), all execution report details of orders, including

…

(iv) the date and time of the execution of the order

[61] In the passages that follow, we first consider the allegations as they relate to trade executions, and then orders.

(a) Trade Executions

[62] Time events, for example, a trade execution, that occur in OSI's matching engine are assigned a "time stamp" when they occur in the matching engine. These time stamps are passed from the matching engine to the FIX Feed and maintained on OSI's FIX Feed. However, this is not the case with the ITCH and MRF Feeds. It was uncontested at the hearing that when that time information is passed from the matching engine to the ITCH Feed and the MRF Feed, the time stamp that had previously been attached to the time event is not passed to those respective feeds. Instead, those events are then assigned what was referred to as a "time label", reflecting the time at which that information passed through the respective feed. This has been described as "suppressing" the time stamp.

[63] Staff's position is that the practice of suppressing the time stamps recorded in the matching engine and having the ITCH Feed and the MRF Feed separately apply new time labels may violate subsection 7.2(1) and subparagraph 11.2(1)(d)(iv) of NI 21-101. Simply put, Staff contends that the application of time labels takes time, and that it sometimes results in a different time than the time recorded in the matching engine. Staff also contends that because the FIX Feed does not always record or disseminate time to the millisecond level, rather than to the second level (discussed more fully below), OSI may be committing a further violation of subparagraph 11.2(1)(d)(iv). It is central to Staff's position that the obligations under the Act and NI 21-101 to record and disseminate accurate information necessarily include the obligation to do so accurately to the millisecond level.

[64] In support of Staff's position, the evidence did disclose that as a result of latency that will sometimes occur in the ITCH Feed and the MRF Feed, OSI's practice of applying time labels has produced two types of discrepancies relevant to the time of events:

a. the time labels applied by the respective processes involved in preparing the ITCH Feed and the MRF Feed are sometimes different than the actual time of execution recorded in the matching engine; and

b. the time labels applied by the respective processes involved in preparing the ITCH Feed and the MRF Feed are sometimes different from each other.

[65] While Staff did not provide evidence of the rate of occurrence of the type of discrepancy described in (a) above, OSI did not contest that in instances where OSI's systems were experiencing heavy load, latency would be introduced into the system, causing the time label to record a different time than the original time stamp, at the millisecond level.

[66] Indeed, we know that the type of discrepancy described in (a) was occurring because of Staff's work in identifying the type of discrepancy described in (b). It is only logical that if the ITCH Feed and MRF Feed were different from each other, the FIX Feed must have been different from at least one of them. Staff found approximately 85,000 instances in which the time label applied to the ITCH Feed was different than the time label applied to the MRF Feed. In the majority of instances, the time discrepancy was one or two milliseconds. Staff also found that approximately 3,500 trades had a time label difference greater or equal to three milliseconds across the data feeds.

[67] Dr. Cheung provided OSI's explanation for why the MRF Feed uses a time label:

> Originally, Omega sent IIROC abbreviated trade data consisting only of quotes and executions. IIROC then requested all trading data, including, for instance, "cancel order" messages. Since the additional messages arise from orders where there was no execution, by definition, there is no time stamp by the Matching Engine for time of execution. Instead, Omega attaches a time label to each outgoing data packet to IIROC. For execution messages, the time stamp from the Matching Engine is suppressed in the outgoing data packet, so that a single, consistent set of time labels is applied to all messages sent to IIROC.
>
> (Exhibit 3, para 20)

[68] In relation to the ITCH Feed, OSI submits that it adopted time labels recording the time of transmission because the ITCH 3.0 protocol does not support embedded time stamps in its messages. OSI submits that conveying the time of message transmission, rather than the time of execution, has been an industry-wide accepted practice.

[69] While OSI did not contest that in some instances, the process of applying time labels had resulted in one or both of the two types of discrepancies described above, it submits that by Staff's own evidence, the process of applying a time label resulted in no change in the millisecond description of the time event in over 98% of trade executions.

[70] OSI submits that in rare circumstances, the discrepancies resulting from the time labels can be measured in minutes. According to OSI, these appear to be anomalous inaccuracies, related to specific technical issues or systems being down on particular days. NI 21-101 contemplates that these will happen, and establishes some protocols involving reporting. Based on the evidence available to us, we have not focused on the "anomalous" larger infrequent inaccuracies in determining whether a temporary order should be made.

[71] The key allegations in this hearing relate to how time is recorded and disseminated on the different feeds, as those times pertain to millisecond precision and accuracy. Subsection 7.2(1) of NI 21-101 requires that information be accurate.

[72] OSI's primary position is that there is no obligation for it to be precise or accurate to the millisecond level. It submits that nowhere in Ontario securities law are milliseconds specifically required. As a result, Staff's assertions that OSI is violating Ontario securities law are akin to asking the Panel to "mak[e] … rules through litigation".

[73] In the alternative, OSI submits that if the Panel does find that there is an obligation on OSI to record or disseminate time to the millisecond level, OSI's practices bring it well within the level of accuracy required.

[74] OSI submits that the only guidance issued by any regulator that addresses the topic of time accuracy is IIROC Notice 16-0022 – *Guidance on Time Synchronization* (the I**IROC Notice**). The IIROC Notice allows for a 50+/- millisecond drift by a marketplace from the Coordinated Universal Time (**UTC**). While neither party suggested that the issue in this Application was OSI drift from UTC, OSI submits that the Panel should take into consideration that IIROC considers a 100 millisecond drift (since one marketplace can drift 50+ and one 50-) between marketplaces acceptable. According to OSI, it follows that differences of a few milliseconds resulting from the process of applying time labels in the ITCH and MRF Feeds are obviously tolerated.

[75] OSI also introduced evidence that the issue of time drift has been the focus of some attention of regulators in the United States. It submits that the Panel should view this evidence as demonstrating that these issues are live ones in the marketplace and require time and careful evaluation before any decisions are made.

[76] In response, Staff stresses that the IIROC Notice relates to clock synchronization and drift from UTC, not different time labels among different feeds from the same marketplace. Staff also notes that the IIROC Notice requires marketplaces to "ensure that system clocks are continually synchronized …"

[77] Staff also submits that the suppression of the time stamp representing the true time of execution in favour of a label reflecting, in a significant number of instances, a different time has nothing to do with "time drift", but instead represents a deliberate choice to disseminate an inaccurate time.

[78] Both parties agreed that the MRF Feed which OSI sends to IIROC records time to the millisecond level because the specifications for IIROC's MRF Feed require OSI to do so. Pursuant to Part 7 of NI 21-101, OSI is obligated to provide the information which its regulator, IIROC, requires.

[79] Staff submits that the obligation to transmit and record time events to the millisecond level is not confined to the MRF Feed. Staff says that the obligation to do so in relation to other feeds should be inferred not only from IIROC's

requirements, but from the requirements of the marketplace itself. For example, the respondent's own ITCH 3.0 protocol disseminates information at the millisecond level. This information is consumed by the TMX IP and then transmitted to the marketplace publicly. Staff submits that OSI's systems and personnel have demonstrated that they view the dissemination of information at the millisecond level as necessary.

[80] In our view, on the totality of the available evidence, it can reasonably be inferred that the dissemination of times at the millisecond level represents the industry standard. It is significant that both OSI's information processor, the TMX IP, and its regulation services provider, IIROC, require times to be disclosed to the millisecond level.

[81] A hearing panel may also reasonably infer that, if the obligation exists to record and disseminate in milliseconds, the obligation under NI 21-101 to record and disseminate accurate information is not met where the reported milliseconds deviate from those recorded internally. A hearing panel may also conclude that tolerance in relation to time synchronization does not imply additional tolerance for deviations due to the deliberate suppression of the time of trade execution in favour of a time label, which will sometimes be later in milliseconds than the time of trade execution internally recorded. Simply put, a hearing panel may reasonably infer that substitution of a different time, albeit a difference measured in milliseconds, does not meet the requirements of NI 21-101. The accurate time for trades is the time of execution recorded in the matching engine, not a later time at which the trade is sent out on any feed.

[82] Accordingly, we are satisfied that a *prima facie* case exists in support of this allegation. However, we recognize that there are arguments advanced by OSI which are not frivolous. Most deviations relied upon in support of this allegation were confined to one or two milliseconds. We again observe (as we did in relation to an earlier allegation) that the evidence presented to us leaves the record unclear as to how significant these deficiencies or their frequency are, and the extent to which they are typical or atypical for comparable marketplaces. This is relevant to whether it is in the public interest to make the temporary order requested by Staff.

(b) Orders

[83] At one point in the hearing, Staff contended that OSI does not record the time at which it first receives orders, in breach of subsection 7.1(1) and subparagraph 11.2(1)(c)(xi) of NI- 21-101. However, this position was modified based on new information provided by OSI through its witnesses during the hearing. (The parties debated whether this resulted from OSI's failure to provide Staff with the requisite information it needed to conduct its investigation or whether this was simply a miscommunication. It is unnecessary for us to resolve this debate.) It now appears that OSI does capture the time at which it receives an order at the gateway level. However, the precision at which it records and disseminates such times may differ based on the instructions of the order originator.

[84] Mr. Tung testified that if a order originator instructs OSI that it wishes to receive information with respect to time events at the millisecond level via the FIX Feed, OSI will provide the order originator data to that level. However, if an order originator only wishes to receive information with respect to time events at the level of seconds, rather than milliseconds, OSI will provide the order originator data to that level only. OSI admitted that in the latter instance, OSI does not record the time event on its FIX Feed to the millisecond level. In either case, it should be noted that the time that the order was received at the gateway by OSI is not passed on to the matching engine. OSI stated that, instead, OSI places orders sequentially into the book in "priority order".

[85] For the reasons already given, we are satisfied that a *prima facie* case exists that OSI is obligated to record and disseminate time information at the millisecond level, and that its failure to do so for some order originators, albeit on their election, may represent non-compliance with the obligation to display and store accurate information about orders in its marketplace. Again, we are mindful of the counterarguments presented by OSI, which are not frivolous.

5. Engaging in conduct contrary to the public interest

[86] In its Application, Staff alleges that OSI may have engaged in conduct contrary to the public interest. In so alleging, Staff relies upon the same conduct particularized above. Accordingly, it is unnecessary to address this as an additional allegation in determining whether we should make a temporary order.

C. Does the public interest favour making a cease trade and suspension of registration temporary order?

[87] The allegations against OSI are serious. Two of Staff's allegations are supported by a *prima facie* case, although the content discrepancies as between two ports and as between feeds unrelated to time accuracy figure less prominently in our analysis. We must now consider whether granting the temporary order requested by Staff is in the public interest.

[88] Staff submits that OSI's failure to comply with the requirements to record and disseminate accurate information will cause public harm in three ways:

a. Regulators are unable to conduct proper oversight of the markets;

b. The fair and efficient operation of capital markets is impeded;

c. Investor confidence in the capital markets is negatively impacted.

[89] Staff further submits that it would be prejudicial to the public interest to await a hearing on the merits without a temporary cease trade order in place. Staff observed that there is no right to operate a marketplace in Ontario.

[90] OSI submits that an order suspending OSI's registration and requiring OSI to cease trading would cause it irreparable harm and likely "shutter" the business.

[91] OSI points to the positive impact of a multiple marketplace structure in Canada and argues that it provides a valuable contribution to the capital markets. OSI further contends that the small time discrepancies should have no impact on retail investors who usually receive market data on a 15 minute time delay.

[92] While again, we are not usurping the role of a hearing panel to decide the issues raised by the parties, we do not accept OSI's argument that the evidence goes so far as to demonstrate no risk of harm to anyone as a result of the deficiencies identified here. The issues identified in Staff's allegations potentially strike at the heart of the integrity of the efficient operation of our markets. The multiple market framework outlined in NI 21-101 and NI 23-101 specifies the rules which apply to all marketplaces in Canada. In today's world, the timeliness and accuracy of the arrival time of an order to a market and the time of execution of a trade are extremely important in determining whether each marketplace is operating fairly for its own participants and whether each marketplace is integrated in a fair and effective manner with other marketplaces. A hearing panel may reasonably infer that requirements set out in NI 21-101 do not contemplate that a marketplace can "substitute" a different time on an order or a trade because the architecture of its system has been developed that way.

[93] We agree with Staff that OSI has potentially impeded effective regulatory oversight of its activities. The fact that the matching engine does not maintain the time stamp of receipt of an order and the fact that the regulatory feed to IIROC contains a "time label" which may be different from the actual time of trade execution in the matching engine may mean that IIROC has no possible way to determine if orders were treated fairly.

[94] The risk of harm created by OSI's alleged failures to meet its regulatory obligations may potentially also extend to other market participants, including the dealers who subscribe to OSI as well as other marketplaces which fall under the Order Protection Rule regime or which rely on OSI to provide accurate and timely information to them.

[95] Similarly, we also do not agree that the evidence demonstrates that retail investors cannot be harmed by inaccuracies to the millisecond level. It is highly important to the dealers who route orders on behalf of the retail clients that they can trust the accuracy and timeliness of the data they receive from OSI and that they know that all orders will be treated fairly and assigned the priority they deserve.

[96] Thus the question that the Panel must answer is whether the alleged failures identified relating to the inaccurate content and recording and dissemination of data require that we exercise the extraordinary remedy of granting the requested temporary order. Is the appropriate remedy in this case to grant Staff's Application to suspend OSI's registration and requiring OSI to cease trading?

[97] As we stated above, the existence or absence of irreparable harm does not constitute one of the three components of the applicable test. This is appropriate as the Commission must act in accordance with the public interest. However, the existence of irreparable harm, as articulated in Commission decisions, should be given some weight in determining whether the public interest favours making a temporary order.

[98] We are very mindful of the likely consequences to OSI of the temporary order sought by Staff. To grant such an order would not only stop OSI's operations in the short term, it would make it extremely difficult for OSI to restore its business at a future date. There is no indication at this time as to when the merits hearing would be held or how long the hearing and ultimate decision might take to be completed. Thus to grant the temporary order at this time, would, as OSI points out, essentially "provide Staff with the desired outcome of a hearing on the merits without actually having to undertake to prove its case".

[99] In our view, the limitations on the case presented by Staff, at least at this stage of the proceedings, and the irreparable harm which would likely result from a cease trade order and suspension of registration, figure prominently in whether it is in the public interest to make the requested order. We also accept that OSI has already taken some steps, and is prepared to take additional steps on a timely basis, to address many or all of the issues identified by Staff (including the implementation of a MRF Feed "patch" and an upgrade from the ITCH 3.0 protocol to the ITCH 5.0 protocol as

expeditiously as possible). In the circumstances, Staff has not met its burden of demonstrating that the requested order is in the public interest.

[100] In so concluding, we do not accept that there is no risk of harm whatsoever to investors, arising out of the deficiencies identified. However, that risk, which is itself difficult to quantify given the limitations on the evidence, is mitigated, in our view, by the steps being taken and to be taken to rectify existing deficiencies.

V. SHOULD ANY TEMPORARY ORDER BE MADE?

[101] While the Panel has determined that an order suspending OSI's registration and requiring OSI to cease trading is not in the public interest, it is open to the Panel to consider whether another, less onerous order, should be made.

[102] Subsection 127(5) of the Act describes the types of temporary orders available to the Commission. These have been reproduced in paragraph [18] of our reasons above.

[103] Pursuant to paragraphs 1 and 2 of subsection 127(1) of the Act, we have jurisdiction to impose an order suspending OSI's registration and requiring OSI to cease trading. However, the scope of subsection (5) also tells us that we have jurisdiction to impose less onerous terms and conditions. For example, pursuant to paragraph 1 of subsection 127(1), we have jurisdiction to impose terms and conditions on OSI's registration, rather than suspend it altogether.

[104] Fairness requires the Commission to advise the parties when it is considering alternative terms and conditions to those proposed in Staff's Application, and to give the parties an opportunity to be heard in that regard. We have done precisely that here. Before deciding that we would impose an alternative order imposing terms and conditions on registration, we had the benefit of the parties' submissions on what terms and conditions might be considered.

[105] In our analysis above we have found that the allegations made by Staff are serious and that there is at least a *prima facie* case to be made with respect to some of those allegations. And while we do not consider an order suspending OSI's registration and requiring OSI to cease trading to be in the public interest, we do believe that the potential harm to investors and to the integrity of the markets requires some response on the part of the Commission, while balancing OSI's interest in staying in business, until the allegations are proven or dismissed.

[106] In our view, the terms and conditions incorporated into our order assist in mitigating any risk associated with the deficiencies identified during this hearing, and thereby assist in protecting the public and maintaining public confidence in the capital markets. Those terms and conditions, reproduced below, were informed by our understanding of the intentions already expressed by OSI as to how to address the identified issues, the importance that these issues be addressed in a timely way, and finally, the need for regulatory oversight as changes are being made. As earlier indicated, in crafting these terms and conditions, the Panel attempted to address the public interest in two ways: first, by providing notice to the capital markets of the issues identified at this hearing, and second, by encouraging OSI to resolve those outstanding issues in a way that instills confidence in the accuracy of information recorded and disseminated by it.

[107] Finally, we wish to comment on an issue raised by OSI at the conclusion of its closing argument. The Order Protection Rule requires marketplaces to establish, maintain and ensure compliance with written policies and procedures reasonably designed to prevent inferior-priced orders from "trading through", or being executed before immediately accessible, visible, better-priced limit orders. In certain circumstances, marketplaces and market participants are allowed to declare "self-help" pursuant to NI 23-101, exempting them from the Order Protection Rule. Before this Application was heard, Staff issued OSC Staff Notice 23-706. This Staff Notice notified the capital markets that marketplaces and marketplace participants could consider declaring "self-help" under subsection 6.2(a) or paragraph 6.4(a)(i) of NI 23-101 until further notice.

[108] OSI submits that the Staff Notice was an overreaction, given the limited nature and scope of the discrepancies identified by Staff. In its view, the Staff Notice was "singularly destructive to the business". It urged us to take action to redress the situation.

[109] On this Application for a temporary order, we have no jurisdiction to "strike" the Staff Notice. Nor would it be wise for us to comment on regulatory activity not properly before us. We expect that Staff will consider our reasons in determining the appropriate approach moving forward. Similarly, we expect that our reasons will inform the capital markets' approach to OSI. It is not for us to say what those approaches should or must be.

VI. THE DURATION OF A SUBSECTION 127(5) ORDER

[110] We have already reproduced subsection 127(5) of the Act. An application for an initial temporary order pursuant to subsection 127(5) may be brought without notice or on notice to the respondent.[7] Indeed, in Money Gate and here, Staff provided notice to the respondents that it was seeking a temporary order.

[111] Subsection 127(6) of the Act provides that:

> The temporary order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by the Commission.

[112] We recognize that the 15 day expiry date was undoubtedly intended largely, if not exclusively, to address the typical case in which the initial temporary order was sought and made without notice. It would be fundamentally unfair for a temporary order to be made for a lengthy period of time without the opportunity for the respondent(s) to be heard.

[113] That having been said, subsection (6) does not expressly limit its application to those initial temporary orders made without notice, but appears to apply, without restriction or qualification, to all temporary orders made under subsection (5).

[114] Staff is fully entitled to seek an extension of an initial temporary order under subsections (7) and (8). They read as follows:

> (7) The Commission may extend a temporary order until the hearing is concluded if a hearing is commenced within the fifteen-day period.
>
> (8) Despite subsection (7), the Commission may extend a temporary order under paragraph 2 or 2.1 of subsection (1) for such period as it considers necessary if satisfactory information is not provided to the Commission within the fifteen-day period.

[115] Indeed, subsection (6) specifically contemplates that the initial temporary order will expire in 15 days "unless extended by the Commission." The Commission's decision in Money Gate draws a clear line between an initial temporary order and an extension order.[8]

[116] We have been provided with two decisions which might arguably have relevance to this jurisdictional point. In *Re Quadrexx Secured Assets Inc.* (2013), 36 OSCB 1671, an application for a temporary order pursuant to subsection 127(5) was brought, on notice to the respondents who opposed the application. The Commission granted the application. The temporary order it made took effect immediately, but by its terms, was to expire on the 15th day after it was made unless extended by order of the Commission. The limited duration of this temporary order is consistent with an interpretation of subsections (5) and (6) which confines the duration of an initial temporary order, even made on notice to the respondent(s), to 15 days. However, the order was unaccompanied by reasons, and therefore has limited precedential value here.

[117] In *Doulis*, the Commission considered an application for a temporary order, again on notice to the respondents. The respondents opposed the application. The Commission said this at paragraph 3:

> As Staff did not obtain a Temporary Order on an ex parte basis under subsection 127(5) of the Act, this Application, brought at the first appearance in this proceeding, provides the first opportunity for the Commission to consider whether it is in the public interest to issue a Temporary Order with respect to the Respondents.

[118] In its reasons for granting the order, the Commission relied upon the statements made in *Valentine* about the criteria for extending a temporary order, including its reference to subsection 127(7). Accordingly, it appears that the Commission considered the extension provisions in subsection 127(7) in deciding whether to grant the application for an initial temporary order. However, what is unusual about this case is that it was apparently argued in March 2011, though the Commission's decision was released in September 2011. We do not know what factors informed the timing of the application or the Commission's decision. There is no indication, in any event, that the jurisdictional issue raised here was a live one in that case.

[119] In our view, the language in subsection 127(6), even adopting a purposive interpretation of the legislation in accordance with the Commission's public interest mandate, is unequivocal that an application for an initial temporary order, whether on notice or without notice, expires in 15 days. However, we also recognize that there is little or no

[7] *Re Money Gate Mortgage Investment Corporation* (2017), 40 OSCB 4440 (***Money Gate***) at para 19.
[8] *Money Gate* at para 37.

reason why a Commission should be unable, when an application is made for a temporary order on notice to the respondent(s), to make an order which lasts more than 15 days. The way to reconcile the language contained in section 127 with that recognition is relatively simple. In our view, the legislation does not preclude Staff, where notice has been given to the respondent(s), from applying at the same time both for an initial temporary order under subsection (5) and for an extension of that order, if granted, under subsection (7) or (8).

[120] In circumstances where the respondents have notice of these applications in a timely way, and the full opportunity to respond, the Commission may exercise its discretion to allow both applications to be heard at the same time. Indeed, in a number of instances, respondents may favour this approach. Rather than hear the initial application only, and then require the parties to return in 15 days when the circumstances are unlikely to have changed, it makes sense to decide both applications at the same time – or at least to have that option available.

[121] The ability to bring an application for an initial temporary order and an extension at the same time also means that Staff does not have a disincentive from bringing its application(s) on notice to the respondent, where circumstances permit.

[122] Here, Staff did not dispute that an initial temporary order made pursuant to subsection 127(5) is normally limited to 15 days in duration. However, it submitted that the rationale for a temporary order so limited in duration disappears when notice has been provided to the respondent, resulting in the full presentation of evidence and submissions by both sides. It therefore urged the Commission to treat the Application as made pursuant to both subsection (5) and (7).

[123] OSI did not take serious issue with the proposition that Staff might, in appropriate circumstances, apply at the same time for both the initial temporary order and its extension, on notice to the respondent. However, it points out that no Statement of Allegations had been issued when Staff first brought its Application for a temporary order. Accordingly, this Application could not reasonably be regarded as an application for both an initial temporary order and an extension pursuant to subsection 127(7). Nor was it treated as such by OSI based on the materials filed. Secondly, OSI submits that the Application was never amended so as to embrace an application for an extension pursuant to subsection (7). Finally, OSI observes that the process of assembling evidence on short notice for this Application was “a scramble”, and that OSI cannot safely assume that it would be unable to supplement its position on a subsequent application for an extension.

[124] As already stated, in our view, on appropriate notice, Staff is entitled to bring an application both for an initial temporary order and for its extension at the same time. In the particular circumstances of this case, we are not satisfied that Staff’s Application was brought in such a manner or equally importantly, that OSI would not be prejudiced by treating this matter as an application for an extension.

[125] In this instance therefore, we have treated this Application as one made pursuant to subsection 127(5) and not as an application for an extension. As earlier indicated, the Order dated November 23, 2017, was to expire on the 15th day after its making.

VII. CONCLUSION

[126] For the reasons given, we made the following order on November 23, 2017:

a. Staff’s requests for a temporary order that the registration of OSI be suspended and that trading in any securities by OSI cease until the conclusion of the hearing on the merits or such other time as ordered by the Commission are denied;

b. Pursuant to subsection 127(5) and paragraph 1 of subsection 127(1) of the Act, the registration of OSI is subject to the following terms and conditions:

   i. OSI shall forthwith provide notice on its website and to its subscribers in writing that the time of execution of trades disseminated pursuant to its ITCH protocol may differ, at the millisecond level, from the time internally recorded by OSI in its matching engine for the execution of these trades;

   ii. OSI shall upgrade from the ITCH 3.0 protocol to the ITCH 5.0 protocol as expeditiously as possible, in compliance with existing regulatory requirements;

   iii. OSI shall report, on a monthly basis, in writing, to Staff of the Commission and to IIROC, if IIROC so requests, on the ongoing steps taken by OSI to comply with b(ii) above;

   iv. OSI shall implement a MRF Feed patch as expeditiously as possible, in compliance with existing regulatory requirements, including IIROC approvals or certification;

v. OSI shall forthwith notify its subscribers that after seven days, all order acknowledgement messages sent pursuant to its FIX Feed will be sent at the millisecond level, except to such subscribers which notify OSI in writing within seven days that they choose not to receive such acknowledgements to the millisecond level;

vi. OSI shall comply with the terms of the notification referred to in b(v) and provide a written report to Staff of the Commission within 14 days and to IIROC, if requested by IIROC, outlining steps taken to so comply; and

vii. OSI shall retain, within 14 days or such later time period as approved by Staff of the Commission, at its own expense, the services of an independent systems reviewer or reviewers that are approved by Staff of the Commission to provide reporting to OSI and Staff of the Commission and to IIROC, if IIROC so requests, regarding the effectiveness of the MRF Feed patch and the ITCH 5.0 protocol, on a quarterly basis for a 12 month period, after each respectively, is implemented; and

c. Pursuant to subsection 127(6) of the Act, this Order shall take effect immediately and shall expire on the 15th day after its making unless extended by the Commission.

[127] Finally, we wish to acknowledge the able submissions of counsel. We are grateful to them for their valuable assistance.

Dated at Toronto this 14th day of December, 2017.

“Mark J. Sandler”

“AnneMarie Ryan”

“Deborah Leckman”

3.1.2 Techocan International Co. Ltd. and Haiyan (Helen) Gao Jordan – s. 144

IN THE MATTER OF
TECHOCAN INTERNATIONAL CO. LTD. and
HAIYAN (HELEN) GAO JORDAN

REASONS AND DECISION ON AN APPLICATION
(Section 144 of the *Securities Act,* RSO 1990, c S.5)

Citation: *Techocan International Co. Ltd. (Re)*, 2017 ONSEC 44
Date: 2017-12-18

Hearing:	November 17, 2017	
Decision:	December 18, 2017	
Panel:	Timothy Moseley	Commissioner and Chair of the Panel
	Philip Anisman	Commissioner
	Frances Kordyback	Commissioner
Appearances:	Jay Naster	For the applicants Techocan International Co. Ltd. and Haiyan (Helen) Gao Jordan
	Linda Fuerst Gavin Smyth	For Staff of the Ontario Securities Commission

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REASONS AND DECISION

I. OVERVIEW

[1] In March of 2017, Techocan International Co. Ltd. (**Techocan**) and Haiyan (Helen) Gao Jordan (**Ms. Jordan**) settled an enforcement proceeding that Staff of the Ontario Securities Commission (**Staff of the Commission**) had brought against them and other respondents. Staff alleged that Techocan and Ms. Jordan had engaged in unregistered trading and illegal distributions.

[2] Techocan and Ms. Jordan (in these reasons, the **Applicants**) now apply to the Commission under section 144 of the *Securities Act* (the **Act**)[1] for an order varying the decision that approved their settlement (the **Techocan Settlement**). They base this application on a second settlement (the **MM Café Settlement**), approved by the Commission one month later, against three other respondents in that same enforcement proceeding:

a. MM Café Franchise Inc. (**MM Café**);

b. Marianne Godwin (**Ms. Godwin**), who was alleged to be a director of MM Café, as well as its Chief Executive Officer; and

c. Dave Garnet Craig (**Mr. Craig**), who was alleged to be a director of MM Café, as well as its Chief Development Officer.

who were alleged to have engaged in unregistered trading, illegal distributions and fraud.

[3] The Applicants point to what they describe as a gross and unjustified disparity between the terms of the two settlements. The Applicants note in particular that they paid monetary sanctions and costs totaling $165,000, while the MM Café Settlement involved no monetary sanctions, and a costs order of only $1,000 against each of the two individual respondents. The Applicants say that this disparity and the manner in which they were treated warrant the requested variation, which would reduce the severity of the sanctions and costs order against them.

[4] The Commission has set aside settlements before, in very limited circumstances, but has not previously varied the terms of a settlement, as the Applicants request in this case. Staff of the Commission submits that this is not a proper case for an order that either revokes or varies the terms of the Techocan Settlement. Staff asserts that this is so for a number of reasons, including that the sanctions in the two settlements are not disproportionate because, among other things:

a. the Applicants received $110,000 in commissions from MM Café in connection with the investments made in shares of MM Café;

b. the Applicants admitted to breaches of two sections of the Act, while the parties to the MM Café Settlement admitted to only one; and

c. the Applicant Ms. Jordan was previously registered with the Commission, whereas none of the parties to the MM Café Settlement had ever been registered.

[5] We conclude that it would be prejudicial to the public interest to grant the relief requested by the Applicants. As we explain more fully below, we find that the Commission should grant relief on an application like this one only in the rarest of circumstances. For the Commission to make an order under section 144 of the Act, relating to a settlement, there must be a compelling interest that does not undermine the public interest in the promotion of settlements and the certainty that results from approval of a settlement agreement. In this case, we are not persuaded that there is an unfair disparity between the outcomes of the two settlements, or any other overriding interest that warrants the Commission's intervention. Finally, even if we concluded that some relief under section 144 were justified, it would be inappropriate to vary the terms of the Techocan Settlement based on the record before us. The application is therefore dismissed.

II. BACKGROUND FACTS

[6] On March 23, 2016, Staff filed a Statement of Allegations, and the Commission issued a Notice of Hearing, to commence the enforcement proceeding against the Applicants. Staff made various allegations against six corporate respondents (including Techocan) and five individual respondents (including Ms. Jordan).

[1] RSO 1990, c S.5.

[7] The impugned distributions were of shares of four of the corporate respondents to investors in Ontario and China. Staff alleged that individuals invested on the strength of representations that they could qualify for permanent resident status in Canada, through the Ontario Provincial Nominee Program.

[8] On July 26, 2016, Staff withdrew its allegations against some respondents, and filed an Amended Amended Statement of Allegations (referred to hereinafter as the **Statement of Allegations**). Instead of referring to distributions of the shares of four issuers, the amended allegations were confined to the distribution of shares of only one issuer; namely, MM Café. The following respondents remained:

a. Ms. Jordan, who was also alleged to have engaged in unregistered trading in shares of MM Café and the three other issuers;

b. Techocan, of which Ms. Jordan was alleged to be the President and directing mind;

c. a numbered company, of which Ms. Jordan was alleged to be a director;

d. MM Café;

e. Ms. Godwin; and

f. Mr. Craig.

[9] On March 24, 2017, the Commission approved the Techocan Settlement. In that settlement agreement, the Applicants admitted that they had engaged in unregistered trading in, and an illegal distribution of, the shares of MM Café. They agreed to the following:

a. disgorgement of $110,000;

b. an administrative penalty of $40,000;

c. costs of $15,000;

d. a five-year market ban, subject to specified exceptions;

e. Ms. Jordan would cooperate with Staff in its investigation and would testify for Staff in the continuing proceeding against the remaining respondents; and

f. Staff would withdraw its allegations against the numbered company associated with Ms. Jordan.

[10] On April 24, 2017, the Commission approved the MM Café Settlement. In that settlement agreement, MM Café admitted that it had carried out an illegal distribution. Ms. Godwin and Mr. Craig admitted that as officers and directors of MM Café, they had authorized, permitted or acquiesced in the breach by MM Café. They agreed to:

a. a permanent ban on any trading in securities by MM Café;

b. a five-year market ban on trading by Ms. Godwin and Mr. Craig, which could be reduced to two years under certain specified circumstances; and

c. costs of $1,000 to be paid by each of Ms. Godwin and Mr. Craig.

[11] On April 25, 2017, the day after approval of the MM Café Settlement, counsel for the Applicants wrote to the Director of Enforcement at the Commission. Counsel asserted that there was a "gross discrepancy in the manner in which Staff and the [Commission] dealt with" the parties to the two settlements, that it was "impossible to reconcile the disparity in the sanctions", and that this was unfair to the Applicants.

III. LEGAL FRAMEWORK

[12] Section 144 of the Act provides that the Commission "may make an order revoking or varying a decision of the Commission … if in the Commission's opinion the order would not be prejudicial to the public interest." The "public interest" is not defined in this context, but as the Commission has consistently held, we are guided by the purposes of the Act as set out in section 1.1: "to provide protection to investors from unfair, improper or fraudulent practices" and "to foster fair and efficient capital markets and confidence in capital markets".

[13] It is not disputed that the Commission has the jurisdiction to make the order sought by the Applicants on this application. The question is whether the Commission should exercise that jurisdiction, and if so, how.

[14] It is also undisputed that the Applicants bear the burden of demonstrating that it would not be prejudicial to the public interest for the Commission to grant the requested relief.

IV. ISSUES

[15] The concerns raised by the Applicants fall into three categories. The Applicants allege that:

a. Under all the circumstances, the disparity between the two settlements cannot be justified and is manifestly unfair to Techocan and to Ms. Jordan.

b. The facts admitted in the MM Café Settlement misrepresent the role of Ms. Godwin and Mr. Craig in the illegal distribution of MM Café shares, by unreasonably minimizing the degree of their responsibility. Further, significant allegations against those parties, as set out in the Statement of Allegations, were not pursued.

c. At the time that the Applicants were negotiating the Techocan Settlement, Staff failed to disclose to them the status of settlement discussions with, or Staff's settlement position regarding, the parties to the MM Café Settlement. The Applicants assert in their Notice of Application that had Staff made the necessary disclosure, the Applicants "never would have agreed" to the settlement as it was concluded.

[16] Staff rejects each of these concerns. It submits that no relief is warranted under section 144 of the Act, but if relief is warranted, the appropriate result is for the Commission to revoke the decision approving the settlement and not to vary the terms of that settlement as requested.

[17] The Applicants make no other complaint about the settlement process. They were represented by experienced counsel throughout, they freely entered into the Techocan Settlement, and they accept that the terms of each settlement are appropriate if the settlements are viewed in isolation.

[18] This application therefore presents the following issues:

a. Under what circumstances generally should the Commission revoke or vary a settlement that has already concluded?

b. When comparing the two settlements in this case, what weight, if any, ought we to give to the contents of the Statement of Allegations?

c. When comparing the two settlements, is the Commission confined to the facts admitted in the agreements, or may the Commission consider other facts relating to the substance of Staff's allegations and submitted by the Applicants on this application?

d. Do the relevant facts disclose a gross and unjustified disparity, as claimed by the Applicants?

e. What obligation, if any, did Staff have to disclose to the Applicants the status of settlement discussions with, or Staff's settlement position regarding, the parties to the MM Café Settlement?

f. To grant the requested relief, is it necessary to conclude that if Staff had made the disclosure suggested by the Applicants, the outcome of the proceeding against them would likely have been different? If so, do the facts in this case support that conclusion?

g. Would it be prejudicial to the public interest to grant relief under section 144 of the Act, and if not, should the Commission vary the terms of the Techocan Settlement as requested?

V. ANALYSIS

A. Under what circumstances generally should the Commission revoke or vary a settlement that has already concluded?

[19] In addressing contested section 144 applications generally, the Commission has held that the authority ought to be used only in "the rarest of circumstances".[2]

[2] *Re Black* (2014), 37 OSCB 9697 at para 13; *Re Khan* (2014), 37 OSCB 1035 at para 21.

[20] Instances in which the Commission has set aside a settlement, whether under section 144 or otherwise, are especially rare. We are aware of only two such cases, both of which involved an admission by one respondent that certain conduct was unlawful, and a later finding that the very same conduct by a co-respondent was lawful. We begin with a review of those two cases, followed by consideration of two other decisions that help to define the relevant principles. We conclude that none of these authorities establishes a basis on which to grant the Applicants' requested order. If we are to grant relief in this case, we will be charting new territory.

[21] The first case in which the Commission set aside a settlement based on a later finding that the underlying conduct was lawful is *Re AIT Advanced Information Technologies Corp.* (***AIT***).[3] Two of three respondents to an enforcement proceeding had settled with Staff, on the basis that their conduct had contravened a section of the Act that required disclosure of a material change. The third respondent contested Staff's allegations and after a merits hearing, the Commission concluded that the alleged conduct did not contravene the Act, as there was not a material change that had to be disclosed at the relevant time. The factual basis of the allegations was identical with respect to all three respondents.

[22] Significantly, the section 144 application in that case was brought by Staff, who submitted that it would be unfair to leave undisturbed the respondents' admission that they had contravened the Act, when the Commission later found that the very same conduct did not contravene the Act. In granting the order to revoke the settlement, the Commission held that "it is absolutely not contrary to the public interest and, in fact, it is very strongly in the public interest that the order go as requested."[4]

[23] The second such decision is *Re McQuillen*,[5] which involved circumstances similar to those in *AIT*. Mr. McQuillen settled an enforcement proceeding brought by Market Regulation Services Inc. (**RS**), admitting that his trading for another registrant, for whom Mr. McQuillen was the administrative assistant, had breached certain of the Universal Market Integrity Rules (**UMIR**). Some years later, a contested hearing proceeded before IIROC (RS's successor organization) against the registrant whom Mr. McQuillen assisted, based on the same trading. The IIROC panel concluded that the trading did not contravene UMIR.

[24] Mr. McQuillen applied to the Commission to set aside the RS settlement. The Commission panel found that the matter was "on all fours" with the *AIT* case,[6] that had both respondents proceeded to the merits hearing, there was no basis on which the panel could have reached different results for the two individuals,[7] and that it would be "manifestly unfair" to Mr. McQuillen to allow his settlement to stand.[8]

[25] We note that the determining factor in *AIT* and in *McQuillen*, *i.e.*, that conduct admitted to be unlawful is later found to be lawful, is not present in this case. We turn to consider two other decisions that may be of assistance.

[26] In 2011, the Commission issued a decision in *Re Rankin*,[9] denying Mr. Rankin's application to revoke the Commission's approval of a settlement agreement he had entered into with Staff. Mr. Rankin claimed that Staff had failed to comply with its obligation to disclose to him certain facts which, Mr. Rankin asserted, would undermine the credibility of a principal witness against him. Staff had disclosed that information to Mr. Rankin's counsel, but Mr. Rankin's counsel did not convey the information to Mr. Rankin. Mr. Rankin said that he would not have entered into the settlement agreement had the information been disclosed to him.

[27] The Commission held that "it is not generally in the public interest for the Commission to re-open settlements previously entered into and approved", but that the Commission should revoke or vary a previous sanctions order where there is "manifest unfairness to a respondent", or where "the facts and circumstances clearly demonstrate that the … order cannot be permitted to stand (such as in [*AIT*])".[10]

[28] In dismissing Mr. Rankin's application, the Commission found that Mr. Rankin fully appreciated the strengths and weaknesses of the case against him,[11] that Staff was precluded by applicable rules of professional conduct from communicating directly with Mr. Rankin,[12] and that the subject information was not crucial in connection with his

3 (2008), 31 OSCB 10027.

4 *AIT* at para 4.

5 (2014), 37 OSCB 8580 (***McQuillen***).

6 *McQuillen* at para 50.

7 *McQuillen* at para 86.

8 *McQuillen* at paras 88, 97.

9 (2011), 34 OSCB 11797 (***Rankin***).

10 *Rankin* at para 84.

11 *Rankin* at para 94.

12 *Rankin* at para 102.

negotiation of the settlement agreement.[13] As a result, the Commission concluded that the failure to disclose was not manifestly unfair to Mr. Rankin.[14]

[29] Staff also referred us to the 2011 decision of the Saskatchewan Court of Appeal in *R v Omoth*,[15] which bears similarities to the present case. We review the case, although in doing so we note the caution expressed by the Divisional Court in its review of *Rankin*: "… it is important to remember that [Commission] proceedings [are] not criminal or quasi-criminal in nature."[16]

[30] Mr. Omoth pled guilty to three counts, and was sentenced in accordance with a joint submission by the Crown and Mr. Omoth's counsel. Mr. Omoth's sentence included a weapons prohibition order. At a later date, Mr. Omoth's co-accused pled guilty to four counts, and was sentenced. His sentence did not include a weapons prohibition order.

[31] Mr. Omoth appealed his sentence solely on the ground of parity. He asserted that his sentence, like that of his co-accused, should not have included a weapons prohibition order. Mr. Omoth relied on s. 718.2(b) of the *Criminal Code*,[17] which provides that "a sentence should be similar to sentences imposed on similar defenders for similar offences committed in similar circumstances".

[32] In dismissing Mr. Omoth's appeal, a majority of the court held that:

a. the *Criminal Code*'s requirement for similar sentences "must be significantly conditioned" by the fact that Mr. Omoth's sentence was the subject of a joint submission;[18]

b. once the sentence contemplated by the joint submission is imposed, both the offender and the prosecutor must accept that a trial might have resulted in a more favourable outcome to either side;[19]

c. it should reject Mr. Omoth's proposed approach, which if adopted would allow an offender to reach a plea agreement and thereby "lock in" a maximum sentence, but then claim a right to have the sentence reduced on appeal if a co-accused later receives a lesser sentence;[20] and

d. the plea discussion process will be undermined, and the likelihood of plea agreements reduced, if the parties lack confidence that a plea agreement will stand once the sentence is imposed.[21]

[33] As noted above in paragraph [12], we must determine the meaning of "the public interest" in section 144 in accordance with the purposes of the Act. In our view, the effectiveness of the Commission's enforcement processes, and confidence in them, are necessary for the Commission to further the purposes of the Act. This requires that any party against whom Staff brings an enforcement proceeding can try to resolve it. As the Commission has observed on numerous occasions, the settlement process advances the interests of administrative efficiency, conservation of resources, finality of proceedings, certainty, and fairness; the resolution of proceedings through settlements benefits the Commission, the regulatory process, investors and the securities markets generally, as well as respondents.[22]

[34] As noted above, the Applicants' case rests on a foundation not reflected in the above authorities. In considering whether we should accept the Applicants' submission that the circumstances of this case give rise to a further basis for section 144 relief, we turn to a review of those circumstances in light of the principles set out above.

B. When comparing the two settlements in this case, what weight, if any, ought we to give to the contents of the Statement of Allegations?

[35] The Applicants submit that the allegations contained in the Statement of Allegations inform a party's "reasonable expectations" as to how matters will proceed, and that we should draw conclusions from the allegations that were not admitted in the settlement agreements.

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13 *Rankin* at para 112.

14 *Rankin* at para 114.

15 [2011] SJ No 214.

16 *Re Rankin*, 2013 ONSC 112 (DivCt) at para 37.

17 RSC, 1985, c C-46.

18 *R v Omoth* at para 12.

19 *R v Omoth* at para 17.

20 *R v Omoth* at para 20.

21 *R v Omoth* at para 18.

22 See, *e.g.*, *Re Sentry Investments Inc.* (2017), 40 OSCB 3435 (***Sentry***) at paras 6-7.

[36] We reject this submission. A Statement of Allegations represents the case that Staff believes, at the time the allegations are made, and with reasonable but not absolute certainty, can be proven against the respondents. Events often intervene to change Staff's view. For example:

a. potential witnesses may change what they have to say, or they may turn out for other reasons to become less reliable than Staff originally believed, or they may become unavailable;

b. Staff may continue its investigation, leading to the discovery of additional evidence that affects Staff's perception of the likely outcome; and

c. opposing counsel or a mediator may persuade Staff that part or all of its case is weak.

[37] Even outside the context of settlements, it is not uncommon for Staff to withdraw allegations against a respondent. Staff's election to do so may, in any given case, be driven by Staff's ongoing duty to pursue only those allegations that it concludes it has a reasonable likelihood of success of establishing.

[38] In our view, therefore, no reliable inference may be drawn from a comparison of the allegations contained in the Statement of Allegations with those admitted to in a settlement agreement.

[39] We note in any event that in the case of both the Techocan Settlement and the MM Café Settlement, substantial allegations contained in the Statement of Allegations did not appear in the relevant agreement. Staff did not proceed with allegations of fraud against the MM Café Settlement respondents, nor with allegations against the Applicants relating to the three additional issuers.

C. When comparing the two settlements, is the Commission confined to the facts admitted in the agreements, or may the Commission consider other facts relating to the substance of Staff's allegations and submitted by the Applicants on this application?

1. Introduction

[40] The Applicants submit that if the Commission limits itself to the facts contained in the settlement agreements, there is a risk that it could be "led down a path" by Staff because it was not "fairly informed of the facts". While the Applicants were careful to note that they do not allege any bad faith in this case, they do say that the facts contained in the MM Café Settlement agreement present a "grossly distorted picture of… the truth".

[41] In support of this submission, the Applicants referred to two examples that they say highlight the alleged unfairness and disparity in treatment. In the following paragraphs, we review those examples and conclude that it would be inappropriate for us to consider additional facts that the Applicants say relate to the merits of the allegations against the various respondents.

2. Information the Applicants say that the Commission ought now to consider

[42] The Applicants' two examples of relevant facts are drawn from the disclosure they received from Staff, early in the proceeding, which information was not part of the record in either settlement approval hearing.

[43] The first example comprised more than thirty pages of promotional materials that were, according to the Applicants, created by Ms. Godwin and Mr. Craig in connection with the distribution of securities of MM Café. It also included the transcript of an interview that Staff conducted of Ms. Godwin, under oath, in January of 2015. One page of the promotional materials lists the company's Global Leadership Team, including Ms. Godwin and Mr. Craig, and includes what purports to be a description of their roles and of their professional histories. In the Applicants' view, the promotional materials and Ms. Godwin's answers in the interview transcript are fundamentally inconsistent with how she was characterized in the MM Café Settlement, as they indicate substantial experience in securities markets.

[44] The Applicants submit that it was unfair for the Commission to have before it, on one hand, a settlement agreement that referred to Ms. Jordan's registration history, and on the other hand, a settlement agreement that failed to refer to Ms. Godwin's long involvement in the securities business.

[45] The second example was a statement of anticipated evidence of a Staff Senior Forensic Accountant that described an analysis of the source and use of funds by the parties to the MM Café Settlement. The Applicants submitted that the statement showed that significant sums obtained as a result of the illegal distribution had been received by Ms. Godwin and Mr. Craig. The Applicants noted that despite this, the MM Café Settlement contained no such reference, and no disgorgement order was agreed to by any of the parties to that settlement agreement.

3. Analysis of the Applicants' submission

[46] In both instances, it would be unwise to conclude here that different facts ought to be found.

[47] When parties disagree about a fact, the Commission must typically weigh conflicting evidence and determine, on a balance of probabilities, whether the fact is true. Testimony of witnesses, cross-examination of those witnesses, and counsel's submissions all enable the Commission to carry out its obligation to determine the facts. In a contested merits hearing, evidence might be qualified, explained, characterized differently, or even found to be unreliable.

[48] Without that testimony and that cross-examination, the Commission is ill-equipped to resolve a factual dispute. The Applicants' two examples give rise to this difficulty; because they were drawn from pre-hearing disclosure delivered by Staff, they are untested. The problem associated with trying to make factual findings on the basis of such untested information was highlighted in the hearing before us, when the Applicants referred to Ms. Godwin's interview. That reference sparked a discussion in which we heard differing submissions as to what inferences could be drawn from Ms. Godwin's answers in light of other parts of Ms. Godwin's interview and whether additional evidence would be necessary or appropriate. Similarly, the anticipated evidence of the Staff accountant about funds allegedly received by Ms. Godwin and Mr. Craig did not provide a sufficient basis from which to reach factual conclusions.

[49] We agree with Staff's submission that the record on this application amounts to the Applicants "cherry-picking" from the disclosure, and that it is insufficient for us to resolve the factual dispute. The second-guessing that the Applicants ask of us would effectively require us to hold a merits hearing that never occurred, a result that would undermine the settlement process and its attendant benefits.

[50] While we cannot rule out the possibility that in another case an applicant might point to circumstances, such as Staff conduct that was abusive, sufficient to warrant the Commission looking behind the admitted facts, the bar for doing so would be high. The Applicants in this case allege no such abuse. The examples offered by the Applicants, about Staff's choices as to the facts put before the settlement approval panels, do not approach the standard that would be required.

[51] In response to the Applicants' concern, cited above in paragraph [40], that such an approach leaves unchecked Staff's ability to tailor the facts put before a panel considering a settlement, Staff made two submissions.

[52] First, Staff noted that rules 32 and 33 of the Commission's *Rules of Procedure and Forms*[23] require a confidential settlement conference at which a panel has an opportunity to review a settlement agreement. At that conference, the panel may ask questions, test admissions, and express any concerns. If, at the conclusion of the confidential settlement conference, the panel is satisfied that the proposed settlement (as amended, where applicable) would be in the public interest, the matter proceeds to a public hearing at which a panel may formally approve the settlement and issue any resulting order. In Staff's submission, this process allows the Commission to minimize the risk that a proposed settlement is improper. We agree.

[53] Secondly, Staff emphasizes that the nature of prosecutorial discretion is such that the tribunal's oversight role is limited. As the Supreme Court of Canada has observed in the criminal context, the "functions of prosecutors and of judges must not be blurred."[24] We agree with the submission that the Commission should be loath to inquire into Staff's exercise of discretion after a settlement has been approved, absent evidence of an abuse of process.

D. Do the relevant facts disclose a gross and unjustified disparity, as claimed by The Applicants?

[54] The Commission's authority under section 127 of the Act to impose sanctions in the public interest is protective. That section provides a wide array of tools that the Commission can tailor to the particular circumstances in order to a reach a result that will achieve the purposes of the Act. Sanctions must reflect and be proportionate to those circumstances, and must also be proportionate to past decisions of the Commission and to the responsibilities of the particular respondent.[25]

[55] In this case, the Applicants do not claim that either of the two settlements was unreasonable or contrary to the public interest, based on the facts contained in the relevant settlement agreement. They admit that viewed in isolation, each can stand. Rather, the Applicants contend that the Techocan Settlement is not proportionate to the MM Café Settlement, particularly when consideration is given to the additional facts as the Applicants understand them to be from the disclosure provided to them in the course of the proceeding.

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23 (2017), 40 OSCB 8988. The two settlements were approved under the rules of procedure then in force, which were replaced by the current rules on October 31, 2017. For the purposes of this decision, there are no consequential differences between the two versions.

24 *R v T.(V.)*, [1992] 1 SCR 749 at 761.

25 *Re Goldpoint Resources Corp.* (2013), 36 OSCB 1464 at para 42.

[56] As the Supreme Court of Canada has held in the context of criminal sentencing, the "principle of parity does not preclude disparity where *warranted by the circumstances* [emphasis in the original]".[26] This statement is equally true in the context of Commission enforcement proceedings, especially in the context of settlements of those proceedings. Any sanctions order must be a product of all of the relevant circumstances, whether it is imposed following a settlement or at the conclusion of a contested hearing. However, unlike an order following a contested hearing, a settlement agreement and the resulting order reflect not just the nature of the factual and legal admissions that a party is willing to make. The agreement also reflects the parties' assessment of the likely outcome of a contested hearing. Finally, the agreement reflects factors, unique to the parties, that affect the parties' priorities and choices.

[57] The two settlements are different in a number of respects:

a. The settlements involved different breaches of the Act. The parties to the Techocan Settlement admit that they contravened two sections of the Act: (i) section 25 of the Act, by engaging in the business of, or holding themselves out as being engaged in the business of, trading in securities without being registered; and (ii) section 53 of the Act, by distributing securities of MM Café in circumstances where no preliminary prospectus and prospectus had been filed, and receipts obtained. The parties to the MM Café Settlement admitted only to contravening the latter, and not the former. Specifically, MM Café admitted that it had carried out an illegal distribution, and Ms. Godwin and Mr. Craig admitted that as directors and officers of MM Café, they had authorized, permitted or acquiesced in the breach by MM Café.

b. Ms. Jordan had previously been registered for six months as a scholarship plan dealing representative; none of the parties to the MM Café Settlement had previously been registered.

c. Ms. Godwin and Mr. Craig relied on a third-party advisor to manage investor relations.

d. The Applicants admitted that they had received $110,000 in commissions from MM Café, of which approximately half was retained by them.

e. Ms. Jordan agreed to cooperate with Staff and to testify for Staff in any proceeding relating to the matters set out in the Techocan Settlement agreement.

f. Staff agreed with Ms. Godwin's and Mr. Craig's assertions that they had limited financial resources. No such assertion was made by Ms. Jordan.

g. The parties to both settlements agreed to the imposition of five-year bans from trading or acquiring securities and from being a director or officer of an issuer. Different exceptions were made, however:

    i. the prohibition against Ms. Jordan trading or acquiring securities allows for trading in managed accounts, and trades in securities of a private company, while no such exception was made for Ms. Godwin or Mr. Craig;

    ii. the prohibition against Ms. Jordan acting as an officer or director is limited to issuers that are not private companies, while that against Ms. Godwin or Mr. Craig extends to all issuers; and

    iii. Staff will, under certain specified circumstances, consent to an order reducing from five years to two years the period of the various bans against Ms. Godwin and Mr. Craig, while no such provision applied to Ms. Jordan.

h. Techocan and Ms. Jordan agreed, jointly and severally, to:

    i. pay a $40,000 administrative penalty, while the MM Café Settlement did not provide for an administrative penalty;

    ii. disgorge to the Commission the amount of $110,000, while the MM Café Settlement did not include a disgorgement order; and

    iii. pay $15,000 in costs; while each of Ms. Godwin and Mr. Craig agreed to pay $1,000 in costs.

[58] As the Commission often notes when it approves settlements, and as the panels in each of the Techocan Settlement and the MM Café Settlement expressly stated, the Commission accords significant deference to the resolution reached by the parties. In determining whether a proposed settlement is in the public interest, the Commission must consider

[26] *R v L.M.*, 2008 SCC 31 (CanLII) at para 36.

whether "the sanctions agreed to by the parties are within a reasonable range of appropriateness in light of the admitted facts",[27] or "within acceptable parameters", not whether the proposed sanctions are those that the Commission would impose after a contested hearing.[28]

[59] Therefore, even where two settlements are based on substantially similar facts and admitted contraventions, it does not follow that the results must be identical or substantially similar. The nature of the settlement process, the particular risk assessment that would be made by each respondent, and the latitude inherent in the Commission's assessment of a "reasonable range" can lead to different results that are in the public interest.

[60] This is not a case of settlements based on substantially similar facts. As noted above, there are numerous differences between the Techocan Settlement and the MM Café Settlement. One or more of those differences might reasonably have contributed to different assessments by Staff and by the respondents involved.

[61] For example, Ms. Jordan had previously been registered under the Act, while neither Ms. Godwin nor Mr. Craig had ever been registered. Commission decisions in which sanctions are imposed have routinely noted a respondent's current or previous registration as an aggravating factor. The Applicants submit that Ms. Jordan's registration history cannot be consequential in this case, because she was registered for only six months, and only as a scholarship plan dealer. We do not accept that submission. Objectives of the prerequisites to obtaining registration include an understanding of the need to be registered in order to conduct certain activities, and of the obligations and responsibilities associated with that status. Registrants are rightly held to a higher standard. This distinguishing fact alone may have played a significant role in the different outcomes in the two settlements.

[62] As a second example, the private company exception to the trading ban imposed against Ms. Jordan (which exception was not provided for in the MM Café Settlement) may have been meaningful to her and may have contributed significantly to her decision to agree to other sanctions.

[63] We cite these examples, although we have no evidence as to the importance of these and other distinguishing features in the minds of Staff and of the various respondents; nor do we have evidence of the basis for each party's assessment of the likely outcome of a contested hearing. This is as it should be. As the Supreme Court of Canada has held, and as the Applicants acknowledge, communications between parties about a possible resolution are protected by a privilege. That privilege promotes settlement by enabling "parties to participate in settlement negotiations without fear that information they disclose will be used against them in litigation."[29]

[64] Further, the Commission's role is not to inquire into the parties' motivations, priorities and risk assessments. As explained above, the Commission's role is to determine whether a particular proposed settlement is within a range of reasonable outcomes and whether it would be in the public interest to approve the settlement.

[65] Because we should not and do not know what the parties' priorities were or how their settlement positions evolved leading up to the agreement, we must base our review of the settlements on what appears in the agreements. In our view, the facts and contraventions agreed to in the two settlements are sufficiently different, in ways that could reasonably be significant enough to a settling party, to make this application quintessentially an "apples to oranges" comparison. Those differences do not permit a meaningful assessment of the sanctions and costs orders in one agreement as against those found in the other agreement. Accordingly, we are unable to accept the Applicants' submission that the two settlements reveal a disparity that is not justified by the circumstances.

E. What obligation, if any, did Staff have to disclose to the Applicants the status of settlement discussions with, or Staff's settlement position regarding, the parties to the MM Café Settlement?

[66] The Applicants submit that their agreement to the terms of the Techocan Settlement was not informed, because they "were never informed of Staff's intention to settle with the co-Respondents Godwin and Craig for only a fraction (1/165th) of the monetary sanctions demanded of the Applicants."[30]

[67] That submission requires us to consider two questions:

a. Does Staff have an obligation to disclose matters related to possible settlements with other respondents?

b. If so, what if anything was Staff required to disclose in this case?

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27 *Sentry* at para 6.

28 *Re Melnyk* (2007), 30 OSCB 5253 at para 15; *Re Koonar* (2002), 25 OSCB 2691 at 3.

29 *Bombardier Inc. v Union Carbide Canada Inc.*, [2014] 1 SCR 800 at para 31.

30 Notice of Application, para 25.

[68] We conclude that:

a. Staff has no general obligation to disclose, to a settling respondent, the status of negotiations with other respondents; and

b. in any event, as the Applicants admitted, there is no evidence as to whether there were any negotiations with the MM Café Settlement respondents, nor was there any evidence about Staff's "intention to settle".

[69] As a result, we reject the Applicants' submission. As noted above, the privilege that attaches to settlement discussions promotes settlements. A party who seeks to pierce that privilege must cite "a competing public interest [that] outweighs the public interest in encouraging settlement."[31] In our view, the Applicants have identified no such overriding public interest.

[70] Even if we were prepared to accede to the Applicants' submission that Staff had an obligation to disclose, there is no evidence as to the truth of the underlying assumption; namely, that when the Techocan Settlement was concluded, Staff intended to settle with Ms. Godwin and Mr. Craig on the terms described, or on any other specific terms. Such an assumption appears to be inconsistent with Ms. Jordan's obligation, in the Techocan Settlement, to cooperate with Staff and to testify against the remaining respondents. That cooperation would not have been needed if Staff were confident that it would soon be settling with Ms. Godwin and Mr. Craig.

[71] Further, even if we do not take the Applicants' submission literally, but interpret it more generously and assume that the Applicants expected Staff to tell them the range of monetary sanctions for which Staff would be prepared to settle with the remaining respondents, we would reject that submission as well. Such an obligation could not reasonably be fulfilled. It is common that a party's acceptable settlement terms are constantly evolving, a reality that applies equally to Staff as it does to a respondent. Would the Applicants expect Staff, in the heat of discussions with a respondent, to update co-respondents in real time? That is an impractical expectation, and one that would jeopardize the confidentiality of settlement discussions. It would significantly undermine the settlement process, and would therefore be prejudicial to the public interest.

F. To grant the requested relief, is it necessary to conclude that if Staff had made the disclosure suggested by the Applicants, the outcome of the proceeding against them would likely have been different? If so, do the facts in this case support that conclusion?

[72] It is undisputed that, as the Divisional Court held in its review of *Rankin*, the applicable test is whether the information, if disclosed, would likely have affected the outcome of the proceeding against the Applicants.[32]

[73] The Applicants adduced no evidence that they would have adopted a different course had they believed that a settlement with Ms. Godwin and Mr. Craig was imminent on terms similar to those in the MM Café Settlement. All that is before us is Applicants' counsel's communication to the Commission's Director of Enforcement (referred to in paragraph [11] above), expressing his concern about the MM Café Settlement and a written submission contained in the Notice of Application.

[74] As a result, we see no basis to conclude that the information "would possibly have led a reasonable person to risk a lengthy… administrative proceeding", to use the words of the Divisional Court in *Re Rankin*.[33]

G. Would it be prejudicial to the public interest to grant relief under section 144 of the Act, and if so, should the Commission vary the terms of the Techocan Settlement as requested?

1. Would it be prejudicial to the public interest to grant relief under section 144 of the Act?

[75] Absent exceptional and compelling circumstances, it would be prejudicial to the public interest to permit a respondent to resile from a settlement agreement on the basis that a co-respondent later concludes what the first respondent perceives to be a more favourable, or even a significantly more favourable, result. In this regard, we respectfully agree with the analysis of the majority in *R v Omot*h, discussed beginning at paragraph [29] above. We conclude that the same considerations apply to settlements of Commission proceedings.

[76] In our view, this application presents no exceptional and compelling circumstances.

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31 *Amoco Canada Petroleum Co. v Propak Systems Ltd.*, 2001 ABCA 110 (CanLII), quoted in *Sable Offshore Energy Inc. v. Ameron International Corp.*, 2013 SCC 37 (CanLII) at para 19.

32 *Re Rankin* (DivCt) at paras 38-39.

33 *Re Rankin* (DivCt) at para 43.

[77] The *AIT* and *McQuillen* decisions, in which the Commission set aside settlements, do not support the Applicants' request for relief. In each of those cases, the subsequent development was a finding by the Commission that the legal basis for an earlier admission was incorrect. This later finding struck at the core of the earlier settlement, viewed objectively. It directly contradicted the admissions that had provided the legal basis for the approval of the earlier settlement. Allowing both to stand would have been contrary to the public interest.

[78] In this case, there are no contradictory Commission findings. Neither the admissions in, nor the terms of, the MM Café Settlement undermine the legitimacy of the admissions in, or the terms of, the Techocan Settlement. The two agreements are based on different background facts and different admitted contraventions of the Act. Each contains a unique set of agreed-upon terms, tailored to reflect the priorities and risk assessments of the particular parties.

[79] Finally, we conclude that Staff was within its authority to determine the scope of the admissions agreed to by the parties and presented to the Commission. As employees of the Commission, Staff have an obligation to perform their enforcement activities fairly and honestly and not to misrepresent facts to the Commission. We have no basis on which to accept the Applicants' submission that the admissions contained in the MM Café Settlement misrepresent the true facts. We could not accept such a submission without effectively conducting a full merits hearing.

[80] The Applicants have failed to demonstrate any manifest unfairness resulting from the process leading up to the Techocan Settlement, the settlement itself, or the subsequent MM Café Settlement. To grant relief under section 144 of the Act would undermine the settlement process and the important benefits of that process and would therefore be prejudicial to the public interest.

2. What would have been the appropriate relief?

[81] While the Applicants are not entitled to relief under section 144 of the Act, we wish to address the parties' submissions regarding the Applicants' requested remedy.

[82] The Applicants did not request an order revoking the Techocan Settlement; indeed, they expressly declined to make that request. Instead, they submit that on the basis of parity, we ought to vary the terms agreed to in the Techocan Settlement to bring the terms closer to those in the MM Café Settlement. Specifically, they requested that we reduce the administrative penalty from $40,000 to $10,000, the amount of disgorgement from $110,000 to $55,750, and the costs from $15,000 to $5,000.

[83] Staff submitted that if we decided to grant relief under section 144, the only appropriate order would be to revoke the decision approving the Techocan Settlement. We agree. The admitted facts in the Techocan Settlement agreement supported the sanctions imposed by the Commission. We cannot now impose different sanctions, over Staff's objection, without a proper record that supports the requested variations and that is based on evidence that the parties have an opportunity to challenge and contradict. No such foundation has been established on this application. In our view, it would be prejudicial to the public interest to vary the sanctions in the manner requested.

[84] For these reasons, had we decided that the Applicants were entitled to relief on this application, we would have revoked the decision approving the Techocan Settlement.

VI. DISPOSITION

[85] For the reasons set out above, we conclude that it would be prejudicial to the public interest to grant the relief sought. The Applicants have therefore failed to meet the required standard under section 144 of the Act. The application is dismissed.

Dated at Toronto this 18th day of December, 2017.

"Timothy Moseley"

"Philip Anisman"

"Frances Kordyback"

3.1.3 TCM Investments Ltd. et al. – ss. 127(1), 127.1

IN THE MATTER OF
TCM INVESTMENTS LTD.
carrying on business as OPTIONRALLY,
LFG INVESTMENTS LTD.,
AD PARTNERS SOLUTIONS LTD. and
INTERCAPITAL SM LTD.

REASONS AND DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)

Citation: *TCM Investments Ltd. (Re)*, 2017 ONSEC 43
Date: 2017-12-18

Hearing:	November 15, 2017	
Decision:	December 18, 2017	
Panel:	Timothy Moseley	Vice-Chair and Chair of the Panel
Appearances:	Matthew Britton	For Staff of the Commission
	No one appearing for the respondents	

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REASONS AND DECISION

I. OVERVIEW

[1] In Reasons and Decision on the merits dated October 11, 2017 (the **Merits Decision**),[1] the Ontario Securities Commission (the **Commission**) found that the respondents had contravened the *Securities Act* (the **Act**)[2] by:

a. engaging in the business of trading binary options (which were securities) without being registered with the Commission; and

b. as a result, engaging in a distribution of securities without a prospectus.

[2] Staff of the Commission now seeks various sanctions and costs orders against the respondents. For the reasons set out below, I find that it is in the public interest to remove the respondents from the capital markets permanently, to order that the respondent TCM Investments Ltd. disgorge $100,000, that the respondents be subject to an administrative penalty in the amount of $100,000, and that the respondents be required to pay costs in the amount of $30,298.75.

1 *Re TCM Investments Ltd.*, 2017 ONSEC 35.
2 RSO 1990, c S.5.

II. HISTORY OF THE PROCEEDING

[3] This proceeding was commenced on August 25, 2017. Staff served the Notice of Hearing and Statement of Allegations on the respondents, none of whom communicated with Staff or appeared on September 26, 2017, which was the hearing date specified in the Notice of Hearing. Pursuant to subsection 7(1) of the *Statutory Powers Procedure Act*,[3] the merits hearing proceeded the following day in the absence of the respondents.

[4] Following the conclusion of the merits hearing, I ordered that the sanctions and costs hearing be held on November 15, 2017. The Merits Decision repeated that information.

[5] Staff did not hear from the respondents, and the respondents did not appear at the hearing on November 15. Again pursuant to subsection 7(1) of the *Statutory Powers Procedure Act*, the sanctions and costs hearing proceeded in their absence. Staff delivered written submissions and made oral submissions. I requested, and Staff later delivered, supplementary written submissions in support of Staff's request for the imposition of an administrative penalty.

III. SUMMARY OF FINDINGS IN THE MERITS DECISION

[6] In the Merits Decision, the Commission found that:

a. the respondent TCM Investments Ltd. operates a website using the name "OptionRally";

b. OptionRally provides a platform for trading binary options;

c. the respondent LFG Investments Ltd. (**LFG**) is the principal on behalf of OptionRally in an affiliate program through which investors could be compensated for referring new clients to OptionRally, and at least one Ontario investor was told by an OptionRally representative that LFG was OptionRally's "registrant";

d. the respondent AD Partners Solutions Ltd. (**AD Partners**) is identified on the OptionRally website as a potential recipient of funds deposited by investors, and at least one Ontario investor sent funds to OptionRally through AD Partners;

e. the respondent InterCapital SM Ltd. (**InterCapital**) provides clearing and billing services to OptionRally, and at least one Ontario investor had his OptionRally payments charged directly to InterCapital;

f. all four respondents were engaged together in the trading of binary options in Ontario;

g. during the material time, none of the respondents was registered with the Commission;

h. all four respondents contravened:

   i. subsection 25(1) of the Act, by engaging in the business of trading in securities without being registered; and

   ii. subsection 53(1) of the Act, by conducting illegal distributions of the securities;

i. Ontario residents invested in excess of $100,000 with OptionRally;

j. numerous investors were pressured to increase the funds they invested with OptionRally, and one investor acceded to a request by an OptionRally representative to allow the representative to access the investor's computer remotely in order to enter trades on the investor's behalf; and

k. most investors reported having lost all or substantially all of their funds.

IV. ANALYSIS – SANCTIONS

A. Introduction

[7] Subsection 127(1) of the Act lists the sanctions that the Commission may impose where it finds that it is in the public interest to do so. The Commission must exercise this jurisdiction in a manner consistent with the two purposes of the

[3] RSO 1990, c S.22.

Act; namely, the protection of investors from unfair, improper or fraudulent practices, and the fostering of fair and efficient capital markets and confidence in the capital markets.[4]

[8] The Supreme Court of Canada has held that the public interest jurisdiction and the sanctions listed in section 127 of the Act are protective and preventive and are intended to be exercised to prevent likely future harm to Ontario's capital markets.[5]

[9] The Commission has identified a non-exhaustive list of factors to be considered with respect to sanctions generally, including the seriousness of the misconduct, any benefits received by the respondent, any mitigating or aggravating factors, and the likely effect that any sanction would have on the respondent ("specific deterrence") as well as on others ("general deterrence"). Sanctions must be appropriate and proportionate to the circumstances of the case and the conduct of each respondent.[6]

B. Removal from the capital markets

[10] Staff submits that it would be in the public interest for the Commission to order that:

a. the respondents cease trading and acquiring securities permanently;

b. the exemptions contained in Ontario securities law not apply to the respondents permanently; and

c. the respondents be prohibited permanently from becoming or acting as a registrant, an investment fund manager or a promoter.

[11] As the Supreme Court of Canada has held, it is the Commission's role to remove from the public markets "those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets."[7]

[12] The respondents' conduct was serious. It contravened two provisions of the Act, both of which are cornerstones of the investor protection regime. Binary options are risky investments, and over a period of time, the respondents repeatedly pressured many investors to provide additional funds. There is no evidence of any attempt by the respondents to assess the investors' financial situation, risk tolerance, investment objectives, or ability to tolerate a loss of their investments. There is no evidence that the respondents made meaningful or any disclosure to the investors about the risks associated with the investments. OptionRally received more than $100,000 from Ontario investors, and as noted above, most investors lost all or substantially all of their funds.

[13] The respondents failed to respond to communications from Staff, and failed to participate in any way in the proceeding against them. The repeated and extended nature of the breaches, and the respondents' failure to respond in any way to Staff's concerns, suggest that the respondents have no concern about the harm they caused investors, and no respect for the regulatory framework that applies to their activities.

[14] There are no mitigating factors.

[15] There is every reason to believe that if the respondents continue to participate in Ontario's capital markets, they will cause further harm to the integrity of those markets, and further harm to investors. The Commission must use the tools that it has under subsection 127(1) of the Act to remove the respondents from the markets. I will therefore grant Staff's request for an order to that effect.

C. Disgorgement

[16] Paragraph 10 of subsection 127(1) of the Act authorizes the Commission to order a respondent to disgorge "any amounts obtained" as a result of non-compliance with the Act. Staff seeks a disgorgement order in the amount of $100,000, only as against OptionRally.

[17] The Commission has previously held that it should consider the following factors when determining whether a disgorgement order is in the public interest, and if so, the appropriate amount of such an order:

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4 Section 1.1 of the Act.

5 *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 (***Asbestos***) at paras 42-43.

6 *Re Bradon Technologies Ltd.* (2016), 39 OSCB 4907 at para 28.

7 *Asbestos* at para 43, citing *Re Mithras Management Ltd.* (1990), 13 OSCB 1600.

a. whether an amount was obtained by a respondent as a result of non-compliance with the Act;

b. the seriousness of the misconduct and the breaches of the Act and whether investors were seriously harmed;

c. whether the amount obtained as a result of the non-compliance is reasonably ascertainable;

d. whether the individuals who suffered losses are likely to be able to obtain redress; and

e. the deterrent effect of a disgorgement order on the respondents and other market participants.[8]

[18] As noted above, OptionRally received at least $100,000 in direct contravention of the Act, the misconduct was serious, and investors were seriously harmed. There is no evidence to suggest that the harmed investors have any reasonable prospect of recovering their losses.

[19] A disgorgement order is designed to prevent a respondent from retaining any amount obtained through conduct that violates the Act, and to serve as a partial deterrent to the respondent and others. The evidence supports Staff's request for an order in the amount of $100,000 against OptionRally. I find that it is in the public interest to make such an order.

D. Administrative penalty

[20] Staff seeks administrative penalties of approximately $500,000 against each respondent, pursuant to paragraph 9 of subsection 127(1) of the Act. That provision allows for an administrative penalty of not more than $1 million for each failure to comply with Ontario securities law.

[21] Staff submits that this case involves several significant aggravating circumstances that warrant the requested penalties.

[22] First, Staff notes that the respondents are offshore entities. However, Staff submitted no authority for the proposition that a respondent's geographic location, including whether the respondent is inside or outside Ontario, should affect the appropriate amount of an administrative penalty. Further, Staff did not establish a legal or policy basis for such a proposition. One might imagine that investors' likelihood of recovery is diminished generally for offshore entities, but there was no evidence or submission to that effect in this case, and the likelihood of recovery is already reflected in the disgorgement order referred to above. I am not persuaded that the respondents' location is an aggravating factor in this case.

[23] Second, Staff asserts that because "the respondents operate[d] behind a façade of corporate entities in foreign jurisdictions and elect[ed] not to respond to these proceedings, the amount of money raised from Ontario investors cannot be easily determined." Staff submits that the $100,000 amount referred to above may not, and likely does not, represent all the funds illegally raised by the respondents. I cannot give effect to these submissions when determining an administrative penalty, because:

a. Staff made no allegation in the Statement of Allegations that the respondents were part of a "façade", or that there was any similar attempt to mask identities or misrepresent corporate relationships, and in any event there was, at best, only inconclusive circumstantial evidence to that effect; and

b. the fact that the exact amount of investor losses cannot be determined is not surprising; indeed, it is common, but this uncertainty cannot support a conclusion, on the balance of probabilities, that the investor harm was any greater than is established by the evidence.

[24] Third, Staff claims in its supplementary written submissions that "none of the corporate respondents has taken steps to see that operations in Ontario are ceased", and "the OptionRally platform for trading binary options was still accessible by Ontario investors on September 17, 2017." However, at the oral hearing with respect to sanctions and costs, Staff expressly advised that because there was no evidence in the record to this effect, Staff was not relying on this assertion as an aggravating factor. I therefore disregard it.

[25] Staff's alternative submission is that if I do not accept the suggested aggravating factors, an administrative penalty of approximately $100,000 would be appropriate. I turn to a brief review of some previous Commission decisions that are of assistance in determining an appropriate penalty.

[26] In the Commission's recent decision in *Re Black Panther Trading Corporation*,[9] the Commission found that the respondents had perpetrated fraud through an illegal distribution, resulting in a profit to the respondents of

8 *Re Limelight Entertainment Inc.* (2008), 31 OSCB 12030 at para 52.

9 2017 ONSEC 8 (***Re Black Panther***).

approximately $314,000. The Commission imposed, in addition to a disgorgement order and other sanctions, a joint and several administrative penalty of $300,000.

[27] In that same decision,[10] the Commission reviewed five earlier sanctions decisions. Four of the five decisions involved findings of fraud, and in those cases, the administrative penalties imposed ranged from $150,000 to $600,000, and from approximately 10% to approximately 50% of the amounts obtained as a result of the non-compliance.[11] The fifth decision, which resulted in an administrative penalty of $200,000, did not include a finding of fraud, but involved an individual who had previously been a registrant for ten years, and who had engaged in the business of advising without representation, and repeatedly misled Staff during the investigation.[12]

[28] While the present case involved neither an allegation of fraud nor a registrant (current or former), the conduct was serious. It involved repeated pressure on vulnerable investors, and it was callous with respect to the harm that might be caused to those investors. The respondents chose not to participate in this proceeding and therefore offered no mitigating factors. In my view, it is in the public interest to impose an administrative penalty of $100,000, the amount requested by Staff in its alternative submission. Further, given my finding that the respondents engaged together in the misconduct, it is appropriate that they be jointly and severally liable for that penalty.

V. ANALYSIS – COSTS

[29] Section 127.1 of the Act provides that if the Commission is satisfied that a company has not complied with Ontario securities law, the Commission may order the company to pay the costs of the investigation, and of or related to the hearing. A costs order is a means by which the Commission can recover some of the costs it has expended in connection with the matter.

[30] Staff requests an order requiring the respondents, jointly and severally, to pay costs of $30,298.75. That amount, which is substantiated by affidavit evidence submitted by Staff, is made up of time spent by one Senior Litigation Counsel and one Investigator, according to hourly rates previously adopted by the Commission. I find that the time spent by Staff on the matter is reasonable under the circumstances, and that the hourly rates are appropriate.

[31] Accordingly, the respondents shall be required to pay costs of $30,298.75, jointly and severally.

VI. CONCLUSION

[32] The Commission will issue an order that provides as follows:

a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by the respondents shall cease permanently;

b. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by the respondents shall cease permanently;

c. pursuant to paragraph 3 of subsection 127(1) of the Act, the exemptions contained in Ontario securities law shall not apply to the respondents permanently;

d. pursuant to paragraph 8.5 of subsection 127(1) of the Act, the respondents shall be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

e. pursuant to paragraph 9 of subsection 127(1) of the Act, the respondents, jointly and severally, shall pay to the Commission an administrative penalty of $100,000, which amount shall be designated for allocation or use by the Commission in accordance with paragraphs b(i) or (ii) of subsection 3.4(2) of the Act;

f. pursuant to paragraph 10 of subsection 127(1) of the Act, TCM Investments Ltd. shall disgorge to the Commission $100,000, which amount shall be designated for allocation or use by the Commission in accordance with paragraphs b(i) or (ii) of subsection 3.4(2) of the Act; and

g. pursuant to section 127.1 of the Act, the respondents shall pay $30,298.75 to the Commission to reimburse the costs of the investigation and hearing, for which they shall be jointly and severally liable.

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10 *Re Black Panther* at para 77.

11 *Re Lyndz Pharmaceuticals Inc.* (2012), 35 OSCB 7357; *Re Richvale Resource Corporation* (2012), 35 OSCB 10699; *Re Moncasa Capital Corp.* (2013), 37 OSCB 229; *Re 2196768 Ontario Ltd.* (2015), 38 OSCB 2374.

12 *Re Doulis* (2014), 37 OSCB 11511.

Dated at Toronto this 18th day of December, 2017.

“Timothy Moseley”

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
Tribute Resources Inc.	05 December 2017	12 December 2017

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
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
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
Katanga Mining Limited	15 August 2017	

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Chapter 5

Rules and Policies

5.1.1 Ontario Securities Commission Rule 72-503 Distributions Outside Canada and Companion Policy 72-503 Distributions Outside Canada

NOTICE OF ADOPTION

OSC RULE 72-503 *DISTRIBUTIONS OUTSIDE CANADA*

AND

COMPANION POLICY 72-503 *DISTRIBUTIONS OUTSIDE CANADA*

December 21, 2017

Introduction

On November 28, 2017, the Ontario Securities Commission (**we** or the **OSC**) approved the withdrawal of "Interpretation Note 1 Distributions of Securities Outside Ontario"[1] (the **Interpretation Note**) and the adoption of

- OSC Rule 72-503 *Distributions Outside Canada* (the **Final Rule**), which includes Form 72-503F *Report of Distributions Outside Canada* (the **Final Form**),
- Companion Policy 72-503 *Distributions Outside Canada* (the **Final Companion Policy**), and
- Consequential Amendment to OSC Rule 11-501 *Electronic Delivery of Documents to the Ontario Securities Commission* (the **Final Consequential Amendment** and together with the Final Rule and the Final Companion Policy, the **Final Materials**).

Under section 143.3 of the *Securities Act* (Ontario) (the **Act**), the Final Rule and the Final Consequential Amendment were delivered to the Minister of Finance on December 19, 2017. The Minister may approve or reject the Final Rule and the Final Consequential Amendment or return them for further consideration. If the Minister approves the Final Rule and the Final Consequential Amendment or does not take any further action by March 5, 2018, they will come into force on March 31, 2018.

If the Final Rule and the Final Consequential Amendment come into force on March 31, 2018, the Final Companion Policy will become effective, and the Interpretation Note will be withdrawn, on March 31, 2018.

Substance and Purpose

Together, the Final Rule and the Final Companion Policy modernize and replace the Interpretation Note, bringing greater certainty to cross-border activities in Ontario.

Background

On June 30, 2016, we published our initial proposals for OSC Rule 72-503 *Distributions Outside of Canada* (the **2016 Proposed Rule**), Form 72-503F *Report of Distributions Outside of Canada*, and Companion Policy 72-503 *Distributions Outside of Canada* for a first comment period which ended on September 28, 2016. Fifteen comment letters were received on this initial publication.

On June 29, 2017, concurrent with the Canadian Securities Administrators' publication of the proposed amendments to National Instrument 45-102 *Resale of Securities*, we published revised proposals for OSC Rule 72-503 *Distributions Outside Canada* (the **2017 Proposed Rule**), Form 72-503F *Report of Distributions Outside Canada* (the **2017 Proposed Form**), and Companion Policy 72-503 *Distributions Outside Canada* (the **2017 Proposed Companion Policy**), together with a consequential amendment to OSC Rule 11-501 *Electronic Delivery of Documents to the Ontario Securities Commission* (together, the **2017 Proposal**).

[1] Interpretation Note 1 was published in connection with the Notice of Repeal of OSC Policy 1.5 *Distribution of Securities Outside of Ontario,* (March 25, 1983) 6 OSCB 226.

Summary of Written Comments

The comment period for the 2017 Proposal ended on September 27, 2017. We received submissions from four commenters. We considered the comments received and thank all of the commenters for their input and support of this initiative. The names of commenters and a summary of their comments, together with our responses, are contained in Annex A of this notice.

Summary of Changes

After considering the comments received on the 2017 Proposal, we have made some revisions as reflected in the Materials and as discussed in our responses to comments. As these changes are not material, we are not republishing the Final Materials for a further comment period.

Annexes

This Notice contains the following Annexes:

- Annex A – list of commenters, summary of comments and responses
- Annex B – the Final Rule, which includes the Final Form
- Annex C – the Final Companion Policy
- Annex D – the Final Consequential Amendment

Questions

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ANNEX A

OSC RULE 72-503 *DISTRIBUTIONS OUTSIDE CANADA*

LIST OF COMMENTERS AND SUMMARY OF COMMENTS AND RESPONSES

No.	Commenter	Date
1.	Stikeman Elliot LLP	September 27, 2017
2.	Blake, Cassels & Graydon LLP	September 27, 2017
3.	Davies Ward Phillips & Vineberg LLP	September 27, 2017
4.	Osler Hoskin & Harcourt LLP	September 27, 2017

No.	Subject	Summarized Comment	Response
GENERAL COMMENTS			
1	Necessity	Three commenters expressed support for the 2017 Proposal. One commenter stated that the 2017 Proposal would be a vast improvement to the offshore offering regime in Ontario as it provides much needed transparency and certainty for offshore offerings, addressing many previously stated concerns with the potential for extra-territorial application of Canadian prospectus requirements. One commenter stated that Ontario market participants are in need of greater certainty in this area than the guidance currently available under the Interpretation Note. The 2017 Proposal will go a long way toward achieving the intended result, and will work to the significant benefit of Ontario market participants.	We thank commenters for their support.
2	Harmonization – Resale	Two commenters referred to the proposed amendments to Section 2.14 of NI 45-102 published by the CSA on June 29, 2017. One commenter urged the OSC to continue to work with the CSA to revisit the resale regime under NI 45-102. One commenter thinks that the imposition of resale restrictions on the exemption under Section 2.4 of the 2017 Proposed Rule is inappropriate as it will force offshore investors to rely on the resale exemption in proposed Section 2.14.1 of NI 45-102. Only by becoming a reporting issuer in a jurisdiction of Canada could the resale of securities sold offshore be tradeable on a foreign exchange. The commenter advocates for the restoration of the version of the resale exemption previously published for comment in the 2016 Proposed Rule.	We are balancing the need to bring greater certainty to Ontario's offshore offering regime with the importance of supporting the continued harmonization of resale requirements across Canada. We recognize that the new "foreign issuer" resale exemption under the proposed NI 45-102 amendments is not as broad as the exemptions originally contemplated under sections 2.3 and 2.4 of the 2016 Proposed Rule. However, the "foreign issuer" resale exemption addresses many of the concerns expressed by market participants regarding the application of section 2.14 of NI 45-102. We note that the OSC continues to participate in and support the CSA's broader policy initiative to revisit and modernize NI 45-102. In the interests of ongoing efforts to harmonize changes to Canada's resale regime, we will not be reintroducing sections 2.3 and 2.4 of the 2016 Proposed Rule.

No.	Subject	Summarized Comment	Response
3	Distributions Outside Ontario	One commenter notes that the 2017 Proposal does not address distributions that are within Canada but outside Ontario. The commenter asks that the OSC explain the distinction between a distribution outside Canada and one that is within Canada but outside Ontario.	Extending the application of the proposed exemptions to any trade outside of Ontario, including other Canadian jurisdictions, raises broader issues regarding the operation of the passport system and the CSA approach to multi-jurisdictional distributions. We do not believe that further distinction is required in order to meaningfully achieve the cross-border capital-raising purposes of the Final Rule.
2017 PROPOSED RULE			
4	Definition of "Specified Foreign Jurisdiction"	One commenter suggests that to the extent it can be anticipated that certain foreign jurisdictions may become the subject of an application for exemptive relief to be treated as a "specified foreign jurisdiction", including such jurisdiction in the definition would promote efficiency in Canadian capital markets and reduce future regulatory burden on issuers.	As previously stated, we did not reflect all of the previous suggestions in Appendix A of the 2017 Proposed Rule and only list those jurisdictions in the definition of "designated foreign jurisdiction" and any other member country of the European Union. We believe that the list of "specified foreign jurisdictions" in Appendix A of the Final Rule is sufficiently broad to capture those foreign jurisdictions that would likely become the subject of an application for exemptive relief.
5	Material Compliance with Foreign Securities Law	Three commenters expressed concerns with the condition to materially comply with the securities laws of the foreign jurisdiction. Two commenters think the condition should be removed. Their reasons include: • The purpose of Ontario's prospectus requirement should not be to protect foreign investors or the integrity of their foreign capital markets by ensuring offshore offerings comply with foreign securities regimes. • The condition introduces greater uncertainty. Ontario lawyers cannot opine on compliance with non-Ontario law. Foreign lawyers cannot express an opinion on the meaning of material compliance as interpreted under Ontario securities law. • Guidance in the 2017 Proposed Companion Policy that an issuer or selling security holder will have satisfied the condition if reasonable steps have been taken to ensure the distribution is effected in accordance with the securities laws of the foreign jurisdiction does not help. Neither an Ontario nor a foreign lawyer could express an opinion regarding what steps, under an Ontario law standard of reasonableness, are necessary to ensure compliance with the foreign law's requirements.	We appreciate commenters' concerns regarding the breadth of the condition to materially comply with the securities laws of the foreign jurisdiction and the challenges of providing a related opinion. Nevertheless, exemptions and exemptive relief are often conditioned on market participants' compliance with similar regulatory requirements in other jurisdictions. In addition to investor protection, the OSC is mandated to foster fair and efficient capital markets and confidence in capital markets, having regard to various principles, including: • Requirements for timely, accurate and efficient disclosure of information, (paragraph 2.1(2)(i) of the Act); and • The integration of capital markets is supported and promoted by the sound and responsible harmonization and co-ordination of securities regulation regimes. In response to comments received on the 2017 Proposed Rule, we have revised the condition to materially comply with "the securities law requirements of the jurisdiction outside Canada" under sections 2.2, 2.3 and 2.4 of the Final Rule to more specifically require material compliance with "the disclosure requirements applicable to the distribution under the securities law of the jurisdiction outside Canada, or the

No.	Subject	Summarized Comment	Response
		Three commenters suggest that the condition be modified. One commenter suggests that the OSC consider revising the provision to require substantial compliance with the material aspects of foreign securities laws rather than material compliance with foreign securities law. One commenter suggests revising the condition to provide that an offshore trade is subject to, rather than materially compliant with, the securities law requirements of the relevant foreign jurisdiction. One commenter suggests revising the condition to require that the distribution be made pursuant to any applicable prospectus, qualification, registration or similar requirements of the jurisdiction outside Canada, or an available exemption from such requirements.	distribution is exempt from such requirements".
6	Exchange or Market Outside Canada	Two commenters suggest that Section 2.5 of the 2017 Proposed Rule refer to a Canadian buyer rather than just a buyer. The suggested change is consistent with guidance in the 2017 Proposed Companion Policy. Codification in the proposed rule would be preferable as it would provide certainty to issuers.	We made the suggested change.
7	Investment Funds	One commenter expressed concerns with Section 4.3 of the 2017 Proposed Rule, which exempts investment funds from the requirement to file a report if it electronically files a Form 45-106F1 not later than 30 days after the calendar year in which the distribution occurred that also includes the required information set forth in the 2017 Proposed Form. It is not clear how an investment fund could electronically file a Form 45-106F1 that contains the same information that would be required in a 2017 Proposed Form given that both will be electronic forms containing different prescribed fields for different required data. The commenter suggests making a single annual report filing on the proposed form but notes that a modified version of the 2017 Proposed Form for use by investment funds for annual reporting purposes should be considered.	We believe that there is sufficient overlap between the two forms such that it should be possible for an investment fund manager to report the information required in the 2017 Proposed Form on Form 45-106F1. The choice, however, remains with the investment fund manager as to whether to file a separate 2017 Proposed Form or a consolidated Form 45-106F1. We are also of the view that a modified 2017 Proposed Form for annual reporting purposes isn't necessary similar to how there is not a separate Form 45-106F1 for annual reporting purposes.
2017 PROPOSED FORM			
8	Certification	Two commenters suggest changes to the 2017 Proposed Form. One commenter suggests additional language be included in the certification clarifying that the individual certifying the proposed form is doing so on behalf of the filer and not in his/her personal capacity. One commenter urged the OSC to take into account the comments and concerns that have been raised by market participants regarding the certification requirements of Form 45-106F1.	To the extent that the final certification requirements of Form 45-106F1 differ from those published for comment, we intend to make consequential amendments to Form 72-503F to align the two certificates.

No.	Subject	Summarized Comment	Response
9	Requirement to File	One commenter suggests that the requirement to file the report in the context of distributions relying on Section 2.2 of the 2017 Proposed Rule be reconsidered. The OSC is likely to have knowledge of the distribution that is taking place as a result of the concurrently filed Ontario prospectus. Virtually every Ontario issuer filing a prospectus in Canada will be required to file a proposed form in connection with the same distribution, adding an administrative cost that is not justified in the circumstances.	We made the suggested change. An issuer or selling security holder relying on the exemption in section 2.2 of the Final Rule is not required to file a report of trade under section 4.1 of the Final Rule.
2017 PROPOSED COMPANION POLICY			
10	Scope	Two commenters expressed views regarding the determination of whether a "distribution" has occurred in Ontario. One commenter agrees that the 2017 Proposal should not be treated or viewed as changing the law in Ontario. However, the commenter believes that the legal determination as to whether a "distribution" has occurred in Ontario should continue to be made under the *Securities Act* (Ontario) (the **Act**). The commenter suggests that additional consideration be given to the examples included in Part 1 of the 2017 Proposed Companion Policy to provide greater consistency with the statement that the 2017 Proposed Rule is not intended to deem any particular issuance a distribution. The commenter submits that the examples should provide guidance to assist in the determination of whether an issuance of securities is a distribution for the purpose of Ontario securities law and not just for the purpose of determining whether securities have come to rest in a foreign jurisdiction. One commenter suggests that the language in the 2017 Proposed Companion Policy be revised to clarify when a trade is not subject to the prospectus requirement by virtue of not being a "distribution" as opposed to circumstances where it is an exempt distribution by virtue of the exemptions in Part 2 of the 2017 Proposed Rule. The commenter further suggests replacing the term "distribution" with more generic terms where the purpose is to identify whether or not a particular trade is in fact a "distribution".	We have not made the suggested change. We are of the view that providing further guidance which narrows the meaning of "distribution" may have unintended consequences and that such guidance is not required in order to meaningfully achieve the cross-border capital-raising purposes of the Final Rule. Whether the OSC has jurisdiction over a distribution of securities to a person or company outside Ontario is a matter to be determined by the courts and tribunals, applying relevant case law to the facts of a particular transaction. The Statement of Principle addresses, more specifically, the application of the Ontario prospectus requirements and provides that, in certain circumstances, the OSC would not interpret the Ontario prospectus requirements as applying to distributions made only to foreign investors.
11	Statement of Principle - Uncertainty	One commenter expressed concerns about the Statement of Principle of the 2017 Proposed Companion Policy. While the concept of reasonable steps to ensure that the offered securities come to rest outside Canada was the cornerstone of the Interpretation Note, it was a source of uncertainty. The commenter expressed specific concerns regarding the use of the term "ensure" and suggests drafting changes to reduce the extent of uncertainty.	We have changed the Statement of Principle in the Final Companion Policy to reduce the uncertainty identified by the commenter.

No.	Subject	Summarized Comment	Response
12	Examples of Reasonable Steps	Two commenters suggest changes to the examples set out in Part 1 of the 2017 Proposed Companion Policy. One commenter suggests that examples (5) and (6) are not relevant. Both examples suggest that a foreign purchaser would be prohibited from reselling securities acquired from a Canadian issuer even to a foreign purchaser. One commenter suggests adding a reference to an "agency agreement" in example (1). The commenter also suggests removing the reference to 90 days in example (6) and replacing it with a reference to a period of time sufficient to create a meaningful economic risk in connection with their investment in the security.	We removed example (6) but did not remove example (5) from the Final Companion Policy. Example (5) is a measure that may contribute to a reasonable conclusion that the offered securities come to rest outside Canada. To have taken "sufficient measures in the circumstances of the distribution to make it reasonable to conclude that the offered securities come to rest outside Canada" does not require a market participant to have taken every measure listed. We have clarified that any representations and warranties provided by the foreign purchaser under example (5) should be reasonable in the circumstances, having regard to the nature of the purchaser, the number of securities purchased, the purchaser's investment strategy, and any other facts and circumstances that a reasonable person would consider relevant in determining whether a purchaser is purchasing with investment intent and not with a view to distribution. We have added a reference to an "agency agreement" in example (1) of the Final Companion Policy.
13	Concurrent Distributions	Two commenters expressed concerns regarding the guidance on concurrent distributions in the 2017 Proposed Companion Policy. One commenter suggests that it should be clarified for the purposes of concurrent distributions that are qualified by an Ontario prospectus that foreign purchasers do not have statutory rights and investor protections under the Act and that a Canadian underwriter would not be required to sign the prospectus. One commenter thinks this guidance gives the impression that Ontario issuers are under a burden to effectively disclaim the applicability of Ontario securities law to purchasers in foreign jurisdictions. The failure to explicitly disclaim the applicability of Ontario securities law should not automatically confer statutory rights under Ontario securities law on foreign investors. The 2017 Proposal should state that the presumption is that Ontario securities law does not apply to protect foreign investors.	While the Final Rule exempts an issuer or selling security holder from the requirement to file an Ontario prospectus qualifying an offering to foreign purchasers, it does not prevent them from doing so. That is, an issuer or selling security holder may choose to file a prospectus in Ontario to qualify such a distribution and provide the statutory protections of Ontario securities law to foreign investors. If an issuer chooses to file a prospectus in Ontario to qualify the distribution of securities to an investor outside Canada, the prospectus should clearly state whether or not it also qualifies the distribution of securities to an investor outside Canada, recognizing that purchasers of Ontario prospectus-qualified securities may be entitled to certain rights and investor protections under the Act. An investor should be able to readily ascertain at the time of purchase whether they are acquiring securities under the prospectus and therefore may be entitled to statutory rights for the purposes of Ontario securities law. Accordingly, if an issuer does not intend the prospectus to qualify the

No.	Subject	Summarized Comment	Response
			distribution of securities to purchasers outside Canada, the prospectus should include a statement to this effect.

ANNEX B

ONTARIO SECURITIES COMMISSION RULE
72-503 *DISTRIBUTIONS OUTSIDE CANADA*

The text box in this Rule located above section 2.4 refers to National Instrument 45-102 Resale of Securities. The text box does not form part of this Rule.

PART 1
DEFINITIONS

Definitions

1.1 In this Rule,

"distribution date" has the same meaning as in National Instrument 45-102 *Resale of Securities*;

"FINRA" means the self-regulatory organization in the United States of America known as the Financial Industry Regulatory Authority; and

"specified foreign jurisdiction" means a jurisdiction listed in Appendix A of this Rule.

PART 2
EXEMPTIONS FROM THE PROSPECTUS REQUIREMENT

Distribution Under Public Offering Document in Foreign Jurisdictions

2.1 The prospectus requirement does not apply to a distribution of securities to a person or company outside Canada if, at the time of the distribution, one or both of the following apply:

(a) the issuer has filed a registration statement in accordance with the 1933 Act registering the securities in connection with the distribution, and that registration statement is effective;

(b) the issuer has filed an offering document that qualifies, registers, or permits the public offering of those securities in accordance with the securities laws of a specified foreign jurisdiction and, if required, a receipt or similar acknowledgement of approval or clearance has been obtained for the offering document in the specified foreign jurisdiction.

Concurrent Distribution under Final Prospectus in Ontario

2.2 The prospectus requirement does not apply to a distribution of securities to a person or company outside Canada if,

(a) the issuer of the securities or the selling security holder has materially complied with the disclosure requirements applicable to the distribution under the securities law of the jurisdiction outside Canada, or the distribution is exempt from such requirements; and

(b) the issuer of those securities has filed with the Commission, and a receipt has been issued for, a final prospectus qualifying a concurrent distribution of the same class, series or type of securities to purchasers in Ontario in accordance with Ontario securities law.

Distributions by Reporting Issuers

2.3 The prospectus requirement does not apply to a distribution by an issuer of a security of its own issue to a person or company outside Canada if,

(a) the issuer has materially complied with the disclosure requirements applicable to the distribution under the securities law of the jurisdiction outside Canada, or the distribution is exempt from such requirements; and

(b) the issuer is a reporting issuer in a jurisdiction of Canada immediately preceding the distribution.

Distributions by Non-Reporting Issuers

Refer to Appendix D of National Instrument 45-102* Resale of Securities*. First trades are subject to a restricted period on resale.

2.4 The prospectus requirement does not apply to a distribution by an issuer that is not a reporting issuer in a jurisdiction of Canada of a security of its own issue to a person or company outside Canada if, the issuer has materially complied with the disclosure requirements applicable to the distribution under the securities law of the jurisdiction outside Canada, or the distribution is exempt from such requirements.

Exchange or Market Outside Canada

2.5 For the purposes of sections 2.1, 2.2, 2.3 and 2.4, a distribution made on or through the facilities of an exchange or market outside Canada is a distribution to a person or company outside Canada if neither the seller nor any person acting on its behalf has reason to believe that the distribution has been pre-arranged with a buyer in Canada.

Anti-avoidance

2.6 The prospectus exemptions in sections 2.1, 2.2, 2.3 and 2.4 are not available with respect to any transaction or series of transactions that is part of a plan or scheme to avoid the prospectus requirements in connection with a distribution to a person or company in Canada.

PART 3
EXEMPTION FROM THE DEALER AND UNDERWRITER REGISTRATION REQUIREMENTS

Exemption from the Dealer and Underwriter Registration Requirements

3.1 The dealer registration requirement and the underwriter registration requirement do not apply to a person or company in connection with a distribution of securities to a person or company outside Canada if all of the following apply:

(a) the distribution is qualified by a prospectus filed in a jurisdiction of Canada or is exempt from the prospectus requirement under Part 2 of this Rule or by another exemption from the prospectus requirement under Ontario securities law;

(b) the head office or principal place of business of the person or company is in the United States of America, a specified foreign jurisdiction or a jurisdiction of Canada;

(c) if the distribution is made to a purchaser located in the United States of America,

(i) the person or company is registered as a broker-dealer with the SEC, is a member of FINRA and materially complies with all applicable conduct and other regulatory requirements of U.S. federal securities law, state securities law of the United States of America and FINRA rules in connection with the distribution; or

(ii) the person or company is exempt from registration as a broker-dealer with the SEC and materially complies with all applicable regulatory requirements of U.S. federal securities law in connection with the distribution;

(d) if the distribution is made to a purchaser located in a specified foreign jurisdiction,

(i) the person or company

(A) is registered under the securities legislation of the specified foreign jurisdiction in a category of registration that permits it to carry on the activities in that jurisdiction that registration as a dealer would permit it to carry on in Ontario, and

(B) materially complies with all applicable dealer registration requirements and other broker-dealer regulatory requirements of the specified foreign jurisdiction in connection with the distribution; or

(ii) the person or company is exempt from registration in the specified foreign jurisdiction and materially complies with all applicable securities regulatory requirements of the specified foreign jurisdiction in connection with the distribution;

(e) the person or company does not carry on business as a dealer or underwriter from an office or place of business in Ontario except in accordance with Ontario Securities Commission Rule 32-505 *Conditional Exemption from Registration for United States Broker-Dealers and Advisers Servicing U.S. Clients from Ontario,* an exemption from the registration requirement in this Rule or another exemption from the registration requirement under Ontario securities law;

(f) the person or company is not registered in any jurisdiction of Canada in the category of dealer.

Issuer Exemption from the Dealer and Underwriter Registration Requirements

3.2 The dealer registration requirement does not apply to an issuer in connection with a distribution of securities to a person or company outside Canada that is qualified by a prospectus filed in any jurisdiction of Canada or that is exempt from the prospectus requirement under Part 2 of this Rule or another exemption from the prospectus requirement under Ontario securities law if one or both of the following apply:

(a) the trade is made through or to a person or company that is relying on the exemption in section 3.1 or another exemption from registration under Ontario securities law;

(b) the trade is made in accordance with the dealer and underwriter registration requirements of the investor's jurisdiction and the issuer is not otherwise registered in any jurisdiction in Canada in the category of dealer.

PART 4
REPORT OF DISTRIBUTION OUTSIDE CANADA

Report of Distribution outside Canada

4.1 An issuer that relies on an exemption in section 2.3 or 2.4 must electronically file a report of trade with respect to the distribution as required by Form 72-503F *Report of Distributions Outside Canada* and its instructions.

4.2 Filing Deadline

(1) An issuer, other than an investment fund, must file the report required under section 4.1 on or before the tenth day after the distribution date.

(2) An issuer that is an investment fund must file the report required under section 4.1 not later than 30 days after the end of the calendar year in which the distribution occurred.

Investment Funds

4.3 An issuer that is an investment fund is not required to file the report under section 4.1 if the seller electronically files a Form 45-106F1 not later than 30 days after the end of the calendar year in which the distribution occurred that also includes the required information set forth in Form 72-503F *Report of Distributions Outside Canada* and its instructions.

PART 5
EXEMPTION

Exemption

5.1 The Director may grant an exemption from Part 4, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 6
EFFECTIVE DATE

Effective Date

6.1 This Rule comes into force on March 31, 2018.

APPENDIX A – SPECIFIED FOREIGN JURISDICTIONS

1. Australia
2. France
3. Germany
4. Hong Kong
5. Italy
6. Japan
7. Mexico
8. The Netherlands
9. New Zealand
10. Singapore
11. South Africa
12. Spain
13. Sweden
14. Switzerland
15. United Kingdom of Great Britain and Northern Ireland
16. Any other member country of the European Union

FORM 72-503F
REPORT OF DISTRIBUTIONS OUTSIDE CANADA

***Instructions*:**

1. An issuer that is required to complete this Form must do so through the online e-form available at http://www.osc.gov.on.ca.

2. Security codes: Wherever this form requires disclosure of the type of security, use the following security codes:

Security code	Security type
BND	Bonds
CER	Certificates *(including pass-through certificates, trust certificates)*
CMS	Common shares
CVD	Convertible debentures
CVN	Convertible notes
CVP	Convertible preferred shares
DEB	Debentures
FTS	Flow-through shares
FTU	Flow-through units
LPU	Limited partnership units
NOT	Notes *(include all types of notes except convertible notes)*
OPT	Options
PRS	Preferred shares
RTS	Rights
UBS	Units of bundled securities *(such as a unit consisting of a common share and a warrant)*
UNT	Units *(exclude units of bundled securities, include trust units and mutual fund units)*
WNT	Warrants
OTH	Other securities not included above *(if selected, provide details of security type in Item 7d)*

1. Full name, address and telephone number of the Issuer.

a) Full name of issuer

b) Head office address

Street address | Province/State

Municipality | Postal code/Zip code

Country | Telephone number

2. Type of security, the aggregate number or amount distributed and the aggregate purchase price.

Types of securities distributed

Provide the following information for all distributions of securities relying on an exemption in section 2.2, 2.3 or 2.4 of the Rule on a per security basis. Refer to section 2 of the Instructions for how to indicate the security code. If providing the CUSIP number, indicate the full 9-digit CUSIP number assigned to the security being distributed.

Security code			CUSIP number (if applicable)	Description of security	Number of securities	Canadian $		
						Single or lowest price	Highest price	Total amount

Details of rights and convertible/exchangeable securities

If any rights (e.g. warrants, options) were distributed, provide the exercise price and expiry date for each right. If any convertible/exchangeable securities were distributed, provide the conversion ratio and describe any other terms for each convertible/exchangeable security.

Security code			Underlying Security code			Exercise price (Canadian $)		Expiry date (YYYY-MM-DD)	Conversion ratio	Describe other terms (if applicable)
						Lowest	Highest			

3. Date of distribution(s).

Distribution date

State the distribution start and end dates. If the report is being filed for securities distributed on only one distribution date, provide the distribution date as both the start and end dates. If the report is being filed for securities distributed on a continuous basis, include the start and end dates for the distribution period covered by the report.

Start date	End date
YYYY MM DD	YYYY MM DD

4. State the name and address of any person acting as dealer or underwriter (including an underwriter that is acting as agent) in connection with the distribution(s) of the securities.

Dealer and underwriter information				
Full legal name				
Street address				
Municipality		Province/State		
Country		Postal code/Zip code		
Telephone number		Website		*(if applicable)*

5. Certification

Certification
Provide the following certification and business contact information of an officer, director or agent of the issuer. If the issuer is not a company, an individual who performs functions similar to that of a director or officer may certify the report. For example, if the issuer is a trust, the report may be certified by the issuer's trustee. If the issuer is an investment fund, a director or officer of the investment fund manager (or, if the investment fund manager is not a company, an individual who performs similar functions) may certify the report if the director or officer has been authorized to do so by the investment fund. *The certification may be delegated, but only to an agent that has been authorized by an officer or director of the issuer to prepare and certify the report on behalf of the issuer.* *The signature on the report must be in typed form rather than handwritten form. The report may include an electronic signature provided the name of the signatory is also in typed form.*

Securities legislation requires an issuer that makes a distribution of securities under certain prospectus exemptions to file a completed report of exempt distribution.

By completing the information below, I certify, on behalf of the issuer/investment fund manager, to the securities regulatory authority or regulator, as applicable, that I have reviewed this report and to my knowledge, having exercised reasonable diligence, the information provided in this report is true and, to the extent required, complete.

Name of issuer/investment fund manager/agent			
Full legal name	Family name	First given name	Secondary given names
Title			
Telephone number		Email address	
Signature		Date	YYYY / MM / DD

ANNEX C

COMPANION POLICY 72-503 *DISTRIBUTIONS OUTSIDE CANADA*

PART 1 APPLICATION AND PURPOSE

This Policy sets out how the Ontario Securities Commission (the **Commission** or the **OSC**) interprets and applies section 53 of the *Securities Act* (Ontario) (the **Act**), the provisions of OSC Rule 72-503 *Distributions of Securities Outside Canada* (the **Rule**) and section 25 of the Act in the context of distributions outside Canada.

Statement of Principle

The Commission takes the view that an investor outside Canada will ordinarily expect to rely on the prospectus, registration statement or similar protections of the securities laws of the foreign jurisdiction in which the investor is located. The Commission recognizes that compliance with the prospectus requirement or conditions of a prospectus exemption under Ontario securities law may be unnecessarily duplicative of these protections and will generally not be necessary to fulfill the purposes of the Act.

Accordingly, the Commission does not interpret the Ontario prospectus requirement as applying to a distribution of securities outside Canada that is made in compliance with the securities laws of the foreign jurisdiction in which the investor is located. However, the Commission would expect the issuer, a selling security holder, an underwriter and other participants in the distribution to take sufficient measures in the circumstances of the distribution to make it reasonable to conclude that the offered securities come to rest outside Canada, meaning that it is unlikely that they will be redistributed back into Canada by an original purchaser outside Canada that has acquired the securities with a view to distribution, rather than with investment intent. The following are examples of measures they may take in support of their reliance on this Statement of Principle:

(1) A restriction in the underwriting, banking group, selling group, or agency agreement that prohibits the sale of securities to any person or company in Canada, except pursuant to a Canadian prospectus or prospectus exemption;

(2) Clear statements in the offering document that the securities: (i) have not been qualified for distribution by prospectus in Canada, and (ii) may not be offered or sold in Canada during the course of their distribution except pursuant to a Canadian prospectus or prospectus exemption;

(3) The class or series of securities being distributed have an existing trading market outside Canada that would not be materially less advantageous for investors outside Canada than making resales on any exchange or market in Canada on which the securities may also be traded;

(4) The distribution is conducted as a broad-based public offering in one or more countries outside Canada and, if there is no existing trading market outside of Canada, it is reasonable to expect that a trading market for the offered securities outside Canada will develop;

(5) Purchasers outside Canada provide representations and warranties, or are given notice that their purchase of the securities will be deemed to constitute a representation and warranty, that they are purchasing the securities with investment intent and not with a view to distribution, and such representations and warranties are reasonable in the circumstances, having regard to the nature of the purchaser, the number of securities purchased, the purchaser's investment strategy, and any other facts or circumstances that a reasonable person would consider relevant in determining whether a purchaser is purchasing with investment intent and not with a view to distribution.

This list of examples of measures that may be taken is provided for illustrative purposes, and is not intended to be a definitive list of any or all of the measures or other factors that participants may take into account in order to reasonably conclude that securities have come to rest outside Canada. Furthermore, the list is intended to assist in determining whether the prospectus requirement applies to a distribution, and is not intended to have a bearing on the ability of market participants to rely on the Rule's exemptions. As the Rule's exemptions are intended to provide greater certainty for market participants, the Commission would not view reliance or purported reliance on an exemption, itself, as determinative that the Ontario prospectus requirement would otherwise apply to a distribution outside Canada or to activities related to the distribution.

The Integrity of the Ontario Capital Markets and the Jurisdiction of the Commission

The Rule's exemptions are intended only for distributions being made in good faith outside Canada, and not as part of a plan or scheme to conduct an indirect distribution to a person or company in Canada.

Neither the Rule nor this Policy impacts the jurisdiction of the Commission. Where the Commission becomes aware of conduct that may bring the reputation of Ontario's capital markets into disrepute or otherwise impair its mandate, the Commission may assert its jurisdiction and exercise its powers to take appropriate action against issuers, underwriters and other persons, including in connection with distributions of securities to an investor outside Canada. The Commission may exercise its discretionary authority to cease trade securities, make orders to prevent conduct contrary to the public interest, and make regulations to foster fair and efficient capital markets and confidence in capital markets irrespective of whether there is a "distribution" in Ontario in breach of section 53 of the Act.

PART 2 EXEMPTIONS FROM THE PROSPECTUS REQUIREMENT

General

The prospectus exemptions under Part 2 of the Rule are intended to facilitate cross-border offerings by removing the potentially duplicative application of Ontario prospectus requirements where offerings to an investor outside Canada are made in material compliance with the securities laws of the foreign jurisdiction.

An issuer or selling security holder meets the requirement to sell to "a person or company outside Canada" if the issuer or selling security holder has no knowledge, and no reason to believe, that the purchaser is a person or company in Canada. Further, section 2.5 of the Rule provides that a distribution made through the facilities of an exchange or market outside Canada will qualify as a distribution outside Canada if neither the seller, nor any person acting on its behalf, has reason to believe the distribution has been pre-arranged with a buyer in Canada. Where the transaction has been pre-arranged, the exemption from the prospectus requirement will only be available if the pre-arranged buyer is in fact a person or company outside Canada.

An issuer or selling security holder will have "materially complied with the disclosure requirements applicable to the distribution under the securities law of the jurisdiction" if the issuer or selling security holder has taken reasonable steps to ensure the distribution is effected in accordance with the securities laws of the foreign jurisdiction.

Concurrent Distribution under Final Prospectus in Ontario

An issuer or selling security holder distributing securities to an investor outside Canada may concurrently distribute securities to purchasers in Ontario provided that the distribution of securities to an investor in Ontario is qualified by a prospectus filed under the Act, or is conducted in reliance on an exemption from the prospectus requirement. The condition under paragraph 2.2(b) of the Rule therefore requires the filing of a prospectus in Ontario in connection with a concurrent distribution in Ontario. The prospectus exemption under section 2.2 of the Rule may be relied on for purposes of the distribution to an investor outside Canada only.

If an issuer or selling security holder files a prospectus to qualify a concurrent distribution to a person or company in Ontario, the issuer may choose to file a prospectus in Ontario to qualify the distribution of securities to an investor outside Canada, rather than rely on the exemption in section 2.2 of the Rule. Any prospectus filed in such circumstances should clearly state whether or not it also qualifies the distribution of securities to an investor outside Canada, recognizing that purchasers of Ontario prospectus-qualified securities may be entitled to certain rights and investor protections under the Act even if the investor is outside Canada.

If there is no concurrent distribution in Ontario but the issuer files an Ontario prospectus in connection with the distribution of securities to an investor outside Canada, the securities being distributed outside Canada will be qualified by the Ontario prospectus. In this case, the issuer or selling security holder would not be relying on the exemption from the prospectus requirement in section 2.2 of the Rule because a prospectus in Ontario is qualifying the distribution.

Resale

Securities distributed under an exemption from the prospectus requirement in section 2.1, 2.2, or 2.3 of the Rule are free trading.

The first trade of securities distributed under an exemption from the prospectus requirement in section 2.4 of the Rule is subject to a restricted period on resale. Refer to Appendix D of National Instrument 45-102 *Resale of Securities*.

The Multijurisdictional Disclosure System

Nothing in the Rule is intended to affect the guidance in section 4.3 of Companion Policy 71-101CP To National Instrument 71-101 *The Multijurisdictional Disclosure System*. An issuer relying on an exemption from the prospectus requirement in paragraph 2.1(a) of the Rule may file a Form F-10 in connection with a distribution solely in the United States of America under the multijurisdictional disclosure system adopted by the SEC, select Ontario as the review jurisdiction, file the registration statement filed with the SEC with the Commission contemporaneously with the filing of the registration statement with the SEC, obtain

notification of clearance from the Commission and advise the SEC of the issuance of the notification of clearance. In this situation, the exemption in paragraph 2.1(a) of the Rule will be available once the Form F-10 has become effective.

PART 3 EXEMPTIONS FROM THE REGISTRATION REQUIREMENT

Section 25 of the Act and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) set out the general requirements for registration as well as certain exemptions from these requirements. The Companion Policy to NI 31-103 provides guidance to issuers and intermediaries on how to apply the triggers for registration as well as interpret the exemptions from these requirements.

Part 3 of the Rule provides an exemption from the dealer and underwriter registration requirements in Ontario securities law for certain foreign dealers (including dealers acting as underwriters) with respect to distributions to investors outside Canada that are made under a prospectus filed in Ontario or made in reliance on a prospectus exemption available under Ontario securities law, including the exemptions in Part 2 of the Rule. The registration exemption in section 3.1 may also be relied on by an entity that has its head office in Canada, is not registered as a dealer in Canada but is registered as a dealer (or exempt from registration) in the United States of America or a specified foreign jurisdiction. The exemption includes entities that have their head office in Canada to address the situation of certain foreign broker-dealer affiliates of Canadian firms that have no foreign offices and share space and personnel with the affiliated Canadian dealer.

The Commission reminds market participants that registration in Ontario is generally required (unless an exemption is otherwise available) where registerable services are provided to investors in Ontario or where registerable activities are otherwise conducted within Ontario, regardless of the location of the investors.

The Commission recognizes that, in the case of a distribution of securities by an Ontario issuer to purchasers outside Canada, there may be a question as to whether foreign dealers or underwriters that participate in the distribution are subject to the dealer and underwriter registration requirements of Ontario securities law. The Commission has introduced the exemption in section 3.1 of the Rule to provide greater certainty to market participants and to help address the challenges that foreign dealers and underwriters may face in determining whether the dealer and underwriter registration requirements apply to their activities. The provision of these exemptions is not determinative of whether Ontario securities law would otherwise apply to the activities of the foreign dealer or underwriter related to the distribution. Foreign dealers and advisers may also wish to consider the registration exemptions in OSC Rule 32-505 *Conditional Exemption from Registration for United States Broker-Dealers and Advisers Servicing U.S. Clients from Ontario*.

The registration exemption in section 3.2 is intended to parallel the existing registration exemption in section 8.5 of NI 31-103 [*Trades to or through a registered dealer*], but broaden it to apply in circumstances where that exemption may not be available because it requires the trades to occur through a dealer that is registered (rather than relying on an exemption from registration). Issuers that distribute securities with regularity and for a business purpose may in certain circumstances be required to be registered. The companion policy to NI 31-103 provides guidance to issuers on how to apply the registration business trigger.

PART 4 FORM 72-503F

Issuers are required to file the information required by Form 72-503F *Report of Distributions Outside Canada* (the **Form**) electronically through the Commission's Electronic Filing Portal. The electronic filing requirement applies to all issuers that are subject to the Form's disclosure requirements. Please see OSC Rule 11-501 *Electronic Delivery of Documents to the Ontario Securities Commission* for further information.

APPENDIX A

The Commission is prepared to consider applications for exemptive relief in respect of distributions in a jurisdiction outside Canada that is not listed as a specified foreign jurisdiction in Appendix A of the Rule.

ANNEX D

AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 11-501
ELECTRONIC DELIVERY OF DOCUMENTS
TO THE ONTARIO SECURITIES COMMISSION

1. Ontario Securities Commission Rule 11-501 Electronic Delivery of Documents to the Ontario Securities Commission is amended by this Instrument.

2. The second row below is added, immediately after the row containing "71-101F1***", to Appendix A:***

Document Reference	Description of Document
72-503F	Form 72-503F *Report of Distributions Outside Canada*

3. This Instrument comes into force on March 31, 2018.

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).

Chapter 9

Legislation

9.1.1 Stronger, Fairer Ontario Act (Budget Measures), 2017 (Bill 177)

BILL 177, *STRONGER, FAIRER ONTARIO ACT (BUDGET MEASURES), 2017*

Schedule 7 of the *Stronger, Fairer Ontario Act (Budget Measures), 2017* (Bill 177) contains a number of amendments to the *Commodity Futures Act*. Schedules 37 and 46 of Bill 177 contain a number of amendments to the *Securities Act*. Bill 177 received Royal Assent on December 14, 2017, and has become chapter 34, Statutes of Ontario, 2017.

Schedules 7, 37 and 46 may be viewed on the Ontario Legislative Assembly's website at www.ontla.on.ca. The text of Schedules 7, 37 and 46 are expected to be reflected shortly in the consolidated versions of the *Commodity Futures Act* and the *Securities Act*, available on the Ontario e-laws site at www.e-laws.gov.on.ca.

SCHEDULE 7
COMMODITY FUTURES ACT

This Schedule amends the *Commodity Futures Act*.

The purposes of the Act are expanded to include contributing to the stability of the financial system and the reduction of systemic risk.

Market participants are required to keep certain prescribed records and may be required to deliver them to the Commission.

Section 54.1 is amended to add a procedure for an employee to complain to an arbitrator or to the court if the employee has been subject to a reprisal prohibited by that section.

Subsection 60 (7) is amended so that the Commission is permitted to extend additional types of temporary orders.

Accessibility amendments are made to the Schedule to the Act.

SCHEDULE 37
SECURITIES ACT

This Schedule amends the *Securities Act*.

The Schedule to the Act is repealed and consequential amendments are made to the definition of rules and to other sections of the Act.

The purposes of the Act are expanded to include contributing to the stability of the financial system and the reduction of systemic risk.

Market participants are required to keep certain prescribed records and may be required to deliver them to the Commission.

The exemptions in subsections 35 (4) and 73.2 (3) from the registration and prospectus requirements are repealed.

Section 87 is amended to provide that the chair at a meeting must conduct a vote by way of ballot if circumstances prescribed by the regulations exist.

Section 121.5 is amended to add a procedure for an employee to complain to an arbitrator or to the court if the employee has been subject to a reprisal prohibited by that section.

Subsection 127 (8) is amended so that the Commission is permitted to extend additional types of temporary orders.

The Commission is also given a new rule-making power regarding meetings of the security holders of a reporting issuer.

SCHEDULE 46
VARIOUS STATUTES

This Schedule amends many statutes in connection with reporting requirements by a number of provincial agencies. The amendments include the revision of section 3.10 of the *Securities Act* in connection with the report sent annually by the Ontario Securities Commission to the Ontario Minister of Finance.

Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
AGFiQ Enhanced Core Global Multi-Sector Bond ETF
AGFiQ Enhanced Global ESG Factors ETF
AGFiQ Enhanced Global Infrastructure ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 18, 2017
NP 11-202 Preliminary Receipt dated December 18, 2017
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
AGF INVESTMENTS INC.
Project #2710668

Issuer Name:
BlueBay Global Monthly Income Bond Fund
BlueBay European High Yield Bond Fund (Canada)
BlueBay Emerging Markets Corporate Bond Fund
RBC Target 2020 Education Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated December 15, 2017
Received on December 18, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Royal Mutual Funds Inc.
RBC Global Asset Management Inc.
Royal Mutual Funds Inc./RBC Direct Investing Inc.
Phillips, Hager & North Investment Funds Ltd.
The Royal Trust Company
RBC Dominion Securities Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2628996

Issuer Name:
CMP 2018 Resource Limited Partnership
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 14, 2017
NP 11-202 Preliminary Receipt dated December 15, 2017
Offering Price and Description:
Maximum Offering: $50,000,000 – 50,000 Limited Partnership Units
Minimum Offering: $5,000,000 – 5,000 Units
Price per Unit: $1,000
Minimum Subscription: $5,000 (Five Units)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Industrial Alliance Securities Inc.
Echelon Wealth Partners Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Raymond James Ltd.
Promoter(s):
Goodman GP Ltd.
Project #2709790

Issuer Name:
IA Clarington Core Plus Bond Fund
IA Clarington Inhance Bond SRI Fund
IA Clarington Strategic Corporate Bond Fund
IA Clarington Floating Rate Income Fund
IA Clarington Inhance Monthly Income SRI Fund
IA Clarington Monthly Income Balanced Fund
IA Clarington Tactical Income Fund
IA Clarington Yield Opportunities Fund
IA Clarington Canadian Balanced Fund
IA Clarington Canadian Balanced Class
IA Clarington Focused Balanced Fund
IA Clarington Growth & Income Fund
IA Clarington Inhance Balanced SRI Portfolio
IA Clarington Inhance Conservative SRI Portfolio
IA Clarington Inhance Growth SRI Portfolio
IA Clarington Canadian Conservative Equity Class
IA Clarington Canadian Small Cap Fund
IA Clarington Canadian Small Cap Class
IA Clarington Dividend Growth Class
IA Clarington Focused Canadian Equity Class
IA Clarington Inhance Canadian Equity SRI Class
IA Clarington North American Opportunities Class
IA Clarington Strategic Equity Income Class
IA Clarington Global Growth & Income Fund
IA Clarington Global Tactical Income Fund
IA Clarington Strategic U.S. Growth & Income Fund
IA Clarington Global Equity Fund
IA Clarington Global Opportunities Class
IA Clarington Global Value Fund
IA Clarington Inhance Global Equity SRI Class
IA Clarington Focused U.S. Equity Class
IA Clarington Sarbit Activist Opportunities Class
IA Clarington Sarbit U.S. Equity Fund
IA Clarington Sarbit U.S. Equity Class
IA Clarington U.S. Dividend Growth Fund
IA Clarington Balanced Portfolio
IA Clarington Conservative Portfolio
IA Clarington Growth Portfolio
IA Clarington Maximum Growth Portfolio
IA Clarington Moderate Portfolio
Forstrong Global Strategist Balanced Fund
Forstrong Global Strategist Growth Fund
Forstrong Global Strategist Income Fund
Principal Regulator – Quebec
Type and Date:
Amendment #2 to Final Simplified Prospectus dated December 18, 2017
Received on December 18, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
IA Clarington Investments Inc.
Project #2613900

Issuer Name:
Dynamic Advantage Bond Fund
Dynamic Corporate Bond Strategies Fund
Dynamic Total Return Bond Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated December 12, 2017
Received on December 13, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
1832 Asset Management L.P.
GCIC Ltd.
Promoter(s):
N/A
Project #2683052

Issuer Name:
Fidelity Far East Fund
Fidelity Global Health Care Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Annual Information Form dated December 15, 2017
Received on December 15, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Fidelity Investments Canada Limited
Promoter(s):
N/A
Project #2675619

Issuer Name:
Fidelity Far East Class
Fidelity Global Health Care Class
Principal Regulator – Ontario
Type and Date:
Amendment #6 to Annual Information Form dated December 15, 2017
Received on December 15, 2017
Offering Price and Description:
Series A, B, E1, E2, E3, E4, F, P1, P2, P3, P4, P5, F5, P1T5, P2T5, F8, T5, T8, S5 and S8 shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Fidelity Investments Canada ULC
Project #2586927

Issuer Name:
IA Clarington Target Click 2020 Fund
Principal Regulator – Quebec
Type and Date:
Amendment #1 to Final Simplified Prospectus dated December 18, 2017
Received on December 18, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
IA Clarington Investments Inc.
Project #2628775

Issuer Name:
imaxx Short Term Bond Fund
imaxx Canadian Bond Fund
imaxx Equity Growth Fund
imaxx Global Equity Growth Fund
imaxx Canadian Fixed Pay Fund
imaxx Canadian Dividend Plus Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated December 18, 2017
Received on December 18, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2609404

Issuer Name:
Maple Leaf Short Duration 2018 Flow-Through Limited Partnership – National Class
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 14, 2017
NP 11-202 Preliminary Receipt dated December 15, 2017
Offering Price and Description:
Maximum Offering: $10,000,000 – 400,000 Maple Leaf Short Duration 2018 Flow-Through Limited Partnership – National Class Units
Minimum Offering: $2,500,000 – 100,000 Maple Leaf Short Duration 2018 Flow-Through Limited Partnership – National Class Units
Price per Unit: $25.00
Minimum Purchase: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
GMP Securities L.P.
Industrial Alliance Securities Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Echelon Wealth Partners Inc.
Manulife Securities Incorporated
Raymond James Ltd.
Laurentian Bank Securities Inc.
Promoter(s):
Maple Leaf Short Duration Holding Ltd.
Maple Leaf Short Duration 2018 Flow-Through Management Corp.
Project #2709846

Issuer Name:
Maple Leaf Short Duration 2018 Flow-Through Limited Partnership – Quebec Class
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 14, 2017
NP 11-202 Preliminary Receipt dated December 15, 2017
Offering Price and Description:
Maximum Offering: $10,000,000 – 400,000 Maple Leaf Short Duration 2018 Flow-Through Limited Partnership – National Class Units
Minimum Offering: $2,500,000 – 100,000 Maple Leaf Short Duration 2018 Flow-Through Limited Partnership – National Class Units
Price per Unit: $25.00
Minimum Purchase: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
GMP Securities L.P.
Industrial Alliance Securities Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Echelon Wealth Partners Inc.
Manulife Securities Incorporated
Raymond James Ltd.
Laurentian Bank Securities Inc.
Promoter(s):
Maple Leaf Short Duration Holding Ltd.
Maple Leaf Short Duration 2018 Flow-Through Management Corp.
Project #2709847

Issuer Name:
MRF 2018 Resource Limited Partnership
Principal Regulator – Alberta (ASC)
Type and Date:
Preliminary Long Form Prospectus dated December 12, 2017
NP 11-202 Preliminary Receipt dated December 13, 2017
Offering Price and Description:
Maximum offering: $50,000,000 – 2,000,000 Units
Minimum offering: $5,000,000 – 200,000 Units
Price: $25 per unit
Minimum Subscription: $2,500 (One Hundred Units)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
GMP Securities L.P.
Manulife Securities Incorporated
Canaccord Genuity Corp.
Middlefield Capital Corporation
Desjardins Securities Inc.
Echelon Wealth Partners Inc.
Industrial Alliance Securities Inc.
Raymond James Ltd.
Promoter(s):
Middlefield Resource Corporation
Project #2709249

Issuer Name:
Phillips, Hager & North Balanced Pension Trust
Phillips, Hager & North Canadian Equity Pension Trust
Phillips, Hager & North Canadian Equity Plus Pension Trust
Phillips, Hager & North Conservative Equity Income Fund
Phillips, Hager & North Overseas Equity Pension Trust
Phillips, Hager & North Small Float Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus and #3 to AIF dated December 15, 2017
Received on December 15, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2628023

Issuer Name:
Phillips, Hager & North Overseas Equity Pension Trust
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Annual Information Form dated December 15, 2017
Received on December 15, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Phillips, Hager & North Investment Funds Ltd.
Promoter(s):
RBC Global Asset Management Inc.
Project #2628011

Issuer Name:
RP Strategic Income Plus Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated December 12, 2017
NP 11-202 Preliminary Receipt dated December 13, 2017
Offering Price and Description:
Class M units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
RP Investment Advisors GP Inc.
Project #2708952

Issuer Name:
Sprott Concentrated Canadian Equity Fund
Sprott International Small Cap Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 7, 2017
NP 11-202 Preliminary Receipt dated December 12, 2017
Offering Price and Description:
Series A, Series F, Series PF, Series I and Series D Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Ninepoint Partners GP Inc.
Project #2708589

Issuer Name:
Sun Life MFS Global Growth Fund
Sun Life MFS Global Value Fund
Sun Life MFS U.S. Growth Fund
Sun Life MFS U.S. Value Fund
Sun Life MFS International Growth Fund
Sun Life MFS International Value Fund
Sun Life Schroder Emerging Markets Fund
Sun Life MFS Global Total Return Fund
Sun Life Milestone 2020 Fund
Sun Life Milestone 2025 Fund
Sun Life Milestone 2030 Fund
Sun Life Milestone 2035 Fund
Sun Life Multi-Strategy Bond Fund
Sun Life MFS Monthly Income Fund
Sun Life Money Market Fund
Sun Life Dynamic Energy Fund
Sun Life Ryan Labs U.S. Core Fixed Income Fund
Sun Life BlackRock Canadian Balanced Class
Sun Life BlackRock Canadian Composite Equity Class
Sun Life BlackRock Canadian Equity Class
Sun Life Money Market Class
Sun Life Dynamic Equity Income Class
Sun Life Dynamic Strategic Yield Class
Sun Life MFS Dividend Income Class
Sun Life Granite Conservative Class
Sun Life Granite Moderate Class
Sun Life Granite Balanced Class
Sun Life Granite Balanced Growth Class
Sun Life Granite Growth Class
Sun Life MFS Canadian Equity Class
Sun Life Sentry Value Class
Sun Life MFS U.S. Growth Class
Sun Life MFS Global Growth Class
Sun Life MFS International Growth Class
Principal Regulator – Ontario
Type and Date:
Amended and Restated to Final Simplified Prospectus dated December 15, 2017
Received on December 15, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Sun Life Global Investments (Canada) Inc.
Project #2639053

Issuer Name:
Sun Life Granite Conservative Portfolio
Sun Life Granite Moderate Portfolio
Sun Life Granite Balanced Portfolio
Sun Life Granite Balanced Growth Portfolio
Sun Life Granite Growth Portfolio
Sun Life Granite Income Portfolio
Sun Life Granite Enhanced Income Portfolio
Sun Life Sentry Value Fund
Sun Life Infrastructure Fund
Sun Life Schroder Global Mid Cap Fund
Sun Life Dynamic American Fund
Sun Life Templeton Global Bond Fund
Sun Life Dynamic Equity Income Fund
Sun Life Dynamic Strategic Yield Fund
Sun Life NWQ Flexible Income Fund
Sun Life BlackRock Canadian Equity Fund
Sun Life BlackRock Canadian Balanced Fund
Sun Life MFS Canadian Bond Fund
Sun Life MFS Canadian Equity Growth Fund
Sun Life MFS Canadian Equity Fund
Sun Life MFS Canadian Equity Value Fund
Sun Life MFS Dividend Income Fund
Sun Life MFS U.S. Equity Fund
Sun Life MFS Low Volatility International Equity Fund
Sun Life MFS Low Volatility Global Equity Fund
Sun Life Franklin Bissett Canadian Equity Class
Sun Life Trimark Canadian Class
Sun Life Sionna Canadian Small Cap Equity Class
Principal Regulator – Ontario
Type and Date:
Amended and restated to Final Simplified Prospectus dated December 15, 2017
Received on December 15, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Sun Life Global Investments (Canada) Inc .
Project #2559217

Issuer Name:
Sun Life Multi-Strategy Target Return Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated December 15, 2017
Received on December 15, 2017
Offering Price and Description:
Series A, F, I, O
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
May 24, 2017
Project #2608911

Issuer Name:
AGF American Growth Class
AGF Canadian Large Cap Dividend Class
AGF Canadian Large Cap Dividend Fund
AGF Canadian Small Cap Fund
AGF Canadian Stock Fund
AGF Dividend Income Fund
AGF EAFE Equity Fund
AGF Elements Balanced Portfolio
AGF Elements Balanced Portfolio Class
AGF Elements Conservative Portfolio
AGF Elements Conservative Portfolio Class
AGF Elements Global Portfolio
AGF Elements Global Portfolio Class
AGF Elements Growth Portfolio
AGF Elements Growth Portfolio Class
AGF Elements Yield Portfolio
AGF Elements Yield Portfolio Class
AGF Emerging Markets Bond Fund
AGF Emerging Markets Fund
AGF Fixed Income Plus Fund
AGF Flex Asset Allocation Fund
AGF Floating Rate Income Fund
AGF Global Bond Fund
AGF Global Convertible Bond Fund
AGF Global Dividend Class
AGF Global Dividend Fund
AGF Global Equity Class
AGF Global Equity Fund
AGF Global Resources Class
AGF Global Select Fund
AGF Global Sustainable Growth Equity Fund
AGF High Yield Bond Fund
AGF Total Return Bond Class
AGF Total Return Bond Fund
AGF Traditional Income Fund
AGF U.S. Sector Class
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated December 11, 2017
NP 11-202 Receipt dated December 14, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
AGF Investments Inc.
Project #2596084

Issuer Name:
Balanced Income Portfolio
Conservative Income Portfolio
Enhanced Income Portfolio
Imperial Canadian Bond Pool
Imperial Canadian Diversified Income Pool
Imperial Canadian Dividend Income Pool
Imperial Canadian Equity Pool
Imperial Emerging Economies Pool
Imperial Equity High Income Pool
Imperial Global Equity Income Pool
Imperial International Bond Pool
Imperial International Equity Pool
Imperial Money Market Pool
Imperial Overseas Equity Pool
Imperial Short-Term Bond Pool
Imperial U.S. Equity Pool
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated December 12, 2017
NP 11-202 Receipt dated December 13, 2017
Offering Price and Description:
Class A and W units @ net asset value
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Canadian Imperial Bank of Commerce
Project #2687035

Issuer Name:
Counsel Income Managed Portfolio
Counsel World Managed Portfolio
Counsel Managed Yield Portfolio
Counsel Managed High Yield Portfolio
Counsel Managed Portfolio
Counsel Regular Pay Portfolio
Counsel Short Term Bond
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated November 24, 2017
NP 11-202 Receipt dated December 15, 2017
Offering Price and Description:
Series A, B, F, F5, FT, I, IB, IT, Private Wealth I and T securities @ Net Asset Value
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2672281

Issuer Name:
Fidelity Far East Class
Fidelity Global Health Care Class
Principal Regulator – Ontario
Type and Date:
Amendment #6 to Final Simplified Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 18, 2017
Offering Price and Description:
Series A, B, E1, E2, E3, E4, F, P1, P2, P3, P4, P5, F5, P1T5, P2T5, F8, T5, T8, S5 and S8 shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Fidelity Investments Canada ULC
Project #2586927

Issuer Name:
First Asset Can-Energy Covered Call ETF
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated December 6, 2017
NP 11-202 Receipt dated December 15, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
First Asset Investment Management Inc.
Project #2632646

Issuer Name:
Horizons Canadian Dollar Currency ETF
Horizons Canadian Midstream Oil & Gas Index ETF
Horizons Cdn Insider Index ETF
Horizons US Dollar Currency ETF
Horizons Marijuana Life Sciences Index ETF
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated December 6, 2017
NP 11-202 Receipt dated December 13, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Horizons ETFs Management (Canada) Inc.
Project #2586349

Issuer Name:
Lincluden Balanced Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Annual Information Form dated December 8, 2017
NP 11-202 Receipt dated December 14, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Lincluden Investment Management Limited
Lincluden Management Limited
Promoter(s):
Lincluden Investment Management Limited
Project #2612309

Issuer Name:
Manulife Monthly High Income Class
Manulife Monthly High Income Fund
Manulife Canadian Balanced Private Pool
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus and #2 to AIF dated December 5, 2017
NP 11-202 Receipt dated December 14, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Manulife Securities Incorporated.
Manulife Securities Investment Services Inc.
Manulife Asset Management Investments Inc.
Promoter(s):
Manulife Asset Management Limited.
Project #2638012

Issuer Name:
Questrade Global Total Equity ETF
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated November 30, 2017
NP 11-202 Receipt dated December 14, 2017
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Questrade Wealth Management Inc.
Project #2648280

Issuer Name:
Renaissance Canadian Equity Private Pool (formerly Frontiers Canadian Equity Pool)
Renaissance Canadian Fixed Income Private Pool (formerly Frontiers Canadian Fixed Income Pool)
Renaissance Emerging Markets Equity Private Pool (formerly Frontiers Emerging Markets Equity Pool)
Renaissance Equity Income Private Pool (formerly Frontiers Equity Income Pool)
Renaissance Global Bond Private Pool (formerly Frontiers Global Bond Pool)
Renaissance Global Equity Private Pool
Renaissance International Equity Private Pool (formerly Frontiers International Equity Pool)
Renaissance Multi-Asset Global Balanced Income Private Pool
Renaissance Multi-Asset Global Balanced Private Pool
Renaissance Multi-Sector Fixed Income Private Pool
Renaissance Real Assets Private Pool
Renaissance U.S. Equity Currency Neutral Private Pool (formerly Frontiers U.S. Equity Currency Neutral Pool)
Renaissance U.S. Equity Private Pool (formerly Frontiers U.S. Equity Pool)
Renaissance Ultra Short-Term Income Private Pool (formerly Frontiers Canadian Short Term Income Pool)
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated December 12, 2017
NP 11-202 Receipt dated December 13, 2017
Offering Price and Description:
Class A, Premium Class, Premium-T4 Class, Premium-T6 Class, Class H-Premium, Class H-Premium T4, Class H-Premium T6, Class C, Class F-Premium, Class F-Premium T4, Class F-Premium T6, Class FH-Premium, Class FH-Premium T4, Class FH-Premium T6, Class N-Premium, Class N-Premium T4, Class N-Premium T6, Class NH-Premium, Class NH-Premium T4, Class NH-Premium T6, Class I, Class O units , and Class OH units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2690690

Issuer Name:
Sun Life Multi-Strategy Target Return Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 18, 2017
Offering Price and Description:
Series A, F, I, O
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
May 24, 2017
Project #2608911

NON-INVESTMENT FUNDS

Issuer Name:
Ag Growth International Inc.
Principal Regulator – Manitoba
Type and Date:
Preliminary Short Form Prospectus dated December 12, 2017
NP 11-202 Preliminary Receipt dated December 12, 2017
Offering Price and Description:
$75,000,000.00
4.50% Convertible Unsecured Subordinated Debentures
Price: $1,000.00 per Debenture

Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
Raymond James Ltd.
BMO Nesbitt Burns Inc.
Altacorp Capital Inc.
Laurentian Bank Securities Inc.
Promoter(s):
–
Project #2707489

Issuer Name:
Aphria Inc. (formerly, Black Sparrow Capital Corp.)
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 15, 2017
NP 11-202 Preliminary Receipt dated December 18, 2017
Offering Price and Description:
$100,000,175.00
7,272,740 Common Shares
Price: $13.75 per Common Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
Altacorp Capital Inc.
Canaccord Genuity Corp.
Cormark Securities Inc.
Promoter(s):
–
Project #2709163

Issuer Name:
Cannabis Strategies Acquisition Corp.
Principal Regulator – Ontario
Type and Date:
Amendment dated December 12, 2017 to Preliminary Long Form Prospectus dated November 15, 2017
NP 11-202 Preliminary Receipt dated December 13, 2017
Offering Price and Description:
$125,000,000.00
12,500,000 Class A Restricted Voting Units
Price: $10.00 per Class A Restricted Voting Unit

Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
Mercer Park CB, L.P.
Project #2694302

Issuer Name:
CI Financial Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 13, 2017
NP 11-202 Preliminary Receipt dated December 13, 2017
Offering Price and Description:
$2,000,000,000.00
Debt Securities (unsecured)
Subscription Receipts
Preference Shares
Common Shares
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2709269

Issuer Name:
Delta 9 Cannabis Inc.
Principal Regulator – Manitoba
Type and Date:
Preliminary Short Form Prospectus dated December 13, 2017
NP 11-202 Preliminary Receipt dated December 13, 2017
Offering Price and Description:
$20,007,000.00 – 7,410,000 Units
Price: $2.70 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
PI Financial Corp.
Beacon Securities Limited
Haywood Securities Inc.
Mackie Research Capital Corporation
Promoter(s):
–
Project #2709272

Issuer Name:
Emera Incorporated
Principal Regulator – Nova Scotia
Type and Date:
Preliminary Short Form Prospectus dated December 11, 2017
NP 11-202 Preliminary Receipt dated December 12, 2017
Offering Price and Description:
$700,010,600.00 – 14,614,000 Common Shares
Price: $47.90 per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Credit Suisse Securities (Canada), Inc.
Industrial Alliance Securities Inc.
Raymond James Ltd.
Promoter(s):
–
Project #2707514

Issuer Name:
Just Energy Group Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 18, 2017
NP 11-202 Preliminary Receipt dated December 18, 2017
Offering Price and Description:
$1,000,000,000.00 – Common Shares, Preferred Shares, Subscription Receipts, Warrants, Debt Securities, Share Purchase Contracts, Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2710632

Issuer Name:
Mogo Finance Technology Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary Short Form Prospectus dated December 13, 2017
NP 11-202 Preliminary Receipt dated December 13, 2017
Offering Price and Description:
$26,250,000.00 – 3,750,000 Common Shares
Price: $7.00 per Offered Share
Underwriter(s) or Distributor(s):
Cormark Securiteis Inc.
Canaccord Genuity Corp.
BMO Nesbitt Burns Inc.
Eight Capital
Mackie Research Capital Corporation
Promoter(s):
–
Project #2708163

Issuer Name:
Pinnacle Renewable Holdings Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 15, 2017
NP 11-202 Preliminary Receipt dated December 15, 2017
Offering Price and Description:
$ *
* Common Shares
Price of $* per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
GMP Securities L.P.
Raymond James Ltd.
HSBC Securities (Canada) Inc.
Promoter(s):
–
Project #2710184

Issuer Name:
Ring the Bell Capital Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary CPC Prospectus (TSX-V) dated December 14, 2017
NP 11-202 Preliminary Receipt dated December 15, 2017
Offering Price and Description:
Minimum Offering: $300,000.00 or 3,000,000 Common Shares
Maximum Offering: $800,000.00 or 8,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Richardson GMP Limited
Promoter(s):
Christopher Tate
Project #2709748

Issuer Name:
Trillium Therapeutics Inc. (formerly Stem Cell Therapeutics Corp.)
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 15, 2017
NP 11-202 Preliminary Receipt dated December 15, 2017
Offering Price and Description:
US$150,000,000.00 – Common Shares, First Preferred Shares, Warrants, Units, Subscription Receipts
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2710144

Issuer Name:
Cannabis Strategies Acquisition Corp.
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated December 14, 2017
NP 11-202 Receipt dated December 15, 2017
Offering Price and Description:
$125,000,000.00 – 12,500,000 Class A Restricted Voting Units
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
Mercer Park CB, L.P.
Project #2694302

Issuer Name:
Cara Operations Limited
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 15, 2017
Offering Price and Description:
$1,500,000,000.00 – Subordinate Voting Shares, Preference Shares, Subscription Receipts, Debt Securities, Warrants, Share Purchase Contracts, Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2708023

Issuer Name:
LexaGene Holdings Inc. (formerly, Wolfeye Resource Corp.)
Principal Regulator – British Columbia
Type and Date:
Final Short Form Prospectus dated December 12, 2017
NP 11-202 Receipt dated December 12, 2017
Offering Price and Description:
$5,014,000.00 – 4,360,000 Units
Price: $1.15 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
PI Financial Corp.
Echelon Wealth Partners Inc.
Promoter(s):
–
Project #2706750

Issuer Name:
Manulife Financial Corporation
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 15, 2017
Offering Price and Description:
$10,000,000,000.00 – Debt Securities, Class A Shares, Class B Shares, Class 1 Shares, Common Shares, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2707971

Issuer Name:
Spirit Banner Capital Corp.
Principal Regulator – Ontario
Type and Date:
Final CPC Prospectus (TSX-V) dated December 12, 2017
NP 11-202 Receipt dated December 15, 2017
Offering Price and Description:
Minimum Offering: $300,000.00 (3,000,000 Common Shares)
Maximum Offering: $1,000,000.00 (10,000,000 Common Shares)
Price: $0.10 per Offered Share
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
Aneel Waraich
Project #2686182

Issuer Name:
Timbercreek Financial Corp.
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated December 11, 2017
NP 11-202 Receipt dated December 12, 2017
Offering Price and Description:
$500,000,000.00 – Common Shares, Debt Securities, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2702235

Issuer Name:
Village Farms International, Inc.
Principal Regulator – British Columbia
Type and Date:
Final Short Form Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 15, 2017
Offering Price and Description:
$13,500,000.00
2,500,000 Common Shares
Price: $5.40 per Offered Share
Underwriter(s) or Distributor(s):
Beacon Securities Limited
Echelon Wealth Partners Inc.
Promoter(s):
–
Project #2706589

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: Collins Barrow Toronto Corporate Finance Inc. To: RSM Canada Corporate Finance Inc.	Exempt Market Dealer	December 1, 2017
New Registration	Fengate Capital Management Ltd.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 14, 2017
Name Change	From: NGAM Canada LP To: Natixis Investment Managers Canada LP	Exempt Market Dealer, Investment Fund Manager, Mutual Fund Dealer and Portfolio Manager	November 16, 2017
Consent to Suspension (Pending Surrender)	MidStar Management Corp.	Exempt Market Dealer and Restricted Portfolio Manager	December 14, 2017
Consent to Suspension (Pending Surrender)	Q1 Capital Partners Inc.	Exempt Market Dealer	December 18, 2017
Consent to Suspension (Pending Surrender)	Silvercove Fund Management Ltd.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 18, 2017
Consent to Suspension (Pending Surrender)	Privest Wealth Management Inc.	Exempt Market Dealer	December 18, 2017
Voluntary Surrender	Armstrong ShawAssociates Inc.	Portfolio Manager	December 12, 2017

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 IIROC – Proposed Amendments to the Minimum Dealer Regulation Fee Component of the Dealer Member Fee Model – Request for Comment

REQUEST FOR COMMENT

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

PROPOSED AMENDMENTS TO THE MINIMUM DEALER REGULATION FEE COMPONENT OF THE DEALER MEMBER FEE MODEL

IIROC is publishing for public comment proposed amendments to the Minimum Dealer Regulation Fee Component of the Dealer Member Fee Model (the Proposed Amendments). IIROC is proposing to introduce a single $22,500 Minimum Fee category to replace the current $15,000 and $27,500 Minimum Fee categories; and to eliminate the Total Allocated Cost element of the Minimum Fee. A copy of the IIROC Notice including the Proposed Amendments is also published on our website at http://www.osc.gov.on.ca. The 45 day-comment period ends on February 5, 2018.

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