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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Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 OSC Staff Notice 21-711 Multilateral Trading Facilities – Exemption from Requirement to be Recognized as an Exchange

**OSC STAFF NOTICE 21-711 MULTILATERAL TRADING FACILITIES –
EXEMPTION FROM REQUIREMENT TO BE RECOGNIZED AS AN EXCHANGE**

A multilateral trading facility (MTF) is a multilateral system, operated in the European Union by an investment firm or market operator, which brings together multiple third-party buying and selling interests in financial instruments in accordance with non-discretionary rules in a way that results in a contract.

Because MTFs have self-regulatory responsibilities, they are considered “exchanges” under Ontario securities law. If an MTF provides access to participants in Ontario, it is considered to be doing business in Ontario and must be recognized as an exchange or obtain an exemption from recognition.

Bloomberg Trading Facility Limited (Bloomberg MTF) has been authorized by the U.K. Financial Conduct Authority to act as the operator of a MTF. Bloomberg MTF has applied for, and the Commission has issued, an interim order exempting Bloomberg MTF from the requirement to be recognized as an exchange, subject to the terms and conditions set out in the order. A copy of the interim exemption order is in chapter 2 of the Bulletin and on the OSC website.

Please refer any questions to

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1.2 Notices of Hearing

1.2.1 John Richard Wolfenden – ss. 8, 21.7

FILE NO.: 2017-76

IN THE MATTER OF
JOHN RICHARD WOLFENDEN

NOTICE OF HEARING
Sections 8 and 21.7 *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Application for Hearing and Review

HEARING DATE AND TIME: January 15, 2018 at 10:00 a.m.

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

PURPOSE

The purpose of this proceeding is to consider the Application dated November 22, 2017, made by the party named above to review a decision of Mutual Fund Dealers Association of Canada dated January 5, 2017.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 6(1) of the Commission's *Practice Guideline*.

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 December 22, 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 The Mutual Fund Dealers Association of Canada – ss. 8, 21.7

FILE NO.: 2017-75

IN THE MATTER OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA

NOTICE OF HEARING
Sections 8 and 21.7 *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Application for Hearing and Review

HEARING DATE AND TIME: January 15, 2018 at 10:00 a.m.

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

PURPOSE

The purpose of this proceeding is to consider the Application dated November 1, 2017, made by the party named above to review a decision of Mutual Fund Dealers Association of Canada dated October 2, 2017.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 6(1) of the Commission's Practice Guideline.

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.

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Dated at Toronto this December 22, 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 Money Gate Mortgage Investment Corporation et al. – ss. 127(1), 127.1

FILE NO.: 2017-79

IN THE MATTER OF
MONEY GATE MORTGAGE INVESTMENT CORPORATION,
MONEY GATE CORP.,
MORTEZA KATEBIAN, and
PAYAM KATEBIAN

NOTICE OF HEARING
Subsection 127(1) and section 127.1 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: January 11, 2018 at 10:00 a.m.

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

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 19, 2017.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 5(1) of the Commission's Practice Guideline.

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 21st 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
MONEY GATE MORTGAGE INVESTMENT CORPORATION,
MONEY GATE CORP.,
MORTEZA KATEBIAN, and
PAYAM KATEBIAN

STATEMENT OF ALLEGATIONS
(Subsection 127(1) and Section 127.1 of the *Securities Act,* R.S.O. 1990, c. S.5)

A. ORDER SOUGHT

1. Staff of the Enforcement Branch of the Ontario Securities Commission (**Enforcement Staff**) requests that the Commission make the following orders against Morteza (Ben) Katebian (**Ben**), Payam Katebian (**Payam**) (together, the **Principals**), Money Gate Mortgage Investment Corporation (**MGMIC**), and Money Gate Corp. (MGC**),** (together with the Principals, the **Respondents**):

   (a) pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the **Act**), that trading in any securities or derivatives by the Respondents cease permanently or for such period as is specified by the Commission;

   (b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by the Respondents is prohibited permanently or for such period as is specified by the Commission;

   (c) pursuant to paragraph 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

   (d) pursuant to paragraph 6 of subsection 127(1) of the Act, that the Principals be reprimanded;

   (e) pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act that the Principals resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;

   (f) pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, that the Principals be prohibited from becoming or acting as directors or officers of any issuer, registrant, or investment fund manager, permanently or for such period as is specified by the Commission;

   (g) pursuant to paragraph 8.5 of subsection 127(1) of the Act that the Respondents be prohibited from becoming or acting as registrants, investment fund managers, or as promoters, permanently or for such period as is specified by the Commission;

   (h) pursuant to paragraph 9 of subsection 127(1) of the Act, that each Respondent pay an administrative penalty of not more than $1 million for each failure by the respective Respondent to comply with Ontario securities law;

   (i) pursuant to paragraph 10 of subsection 127(1) of the Act, that each Respondent disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law;

   (j) that the Respondents be ordered to pay the costs of the Commission investigation and the hearing, pursuant to section 127.1 of the Act; and

   (k) such other order as the Commission considers appropriate in the public interest.

B. FACTS

2. Enforcement Staff make the following allegations of fact:

(a) Overview

3. This proceeding involves fraud, misleading and untrue statements in disclosure documents, unregistered trading, and the illegal distribution of securities.

4. Between August 2014 and April 2017 (the **Material Time**), the Respondents raised approximately $11 million from approximately 155 investors through the sale of preferred shares of MGMIC.

5. The Respondents solicited investors in Ontario to purchase securities of MGMIC, which invested in pools of residential and commercial mortgages. Disclosure provided to investors and other relevant documents outlined various business practices and lending policies, which provided safeguards to reduce risks for investors. MGMIC was supposed to abide by these practices and policies in its operation as a mortgage investment entity.

6. In fact, MGMIC was not following these practices and policies and MGMIC was operating a far riskier mortgage investment business than the one represented to investors. Instances where MGMIC failed to comply with stated business practices and lending policies, resulting in increased risk to investors, include the following:

   (a) The Respondents represented that MGMIC's Investment Committee would review transactions involving potential conflicts of interest, when in fact no review was conducted in accordance with the stated practice. As a result, MGMIC made several investments in mortgages on properties with potential conflicts of interest directly or indirectly owned by the Principals and related parties;

   (b) The Respondents represented that MGMIC would limit its exposure to any one asset class by limiting investment in commercial and industrial properties, when in fact MGMIC made significant investments in mortgages on two (2) industrial properties owned indirectly by related parties accounting for over 60% of MGMIC's total mortgage portfolio, well in excess of its stated limitations; and

   (c) The Respondents represented that MGMIC would limit the loan-to-value (**LTV**) ratio on mortgages it invested in, when in fact MGMIC made significant investments in mortgages on several properties owned directly or indirectly by related parties with LTV ratios well in excess of the stated limits.

7. Information that is publicly disclosed by an issuer must be accurate and not misleading or untrue in order to accomplish the goals of Ontario securities law to protect investors from unfair or improper practices and to foster fair and efficient capital markets and confidence in those markets. Disclosure that intentionally deceives investors about the true nature of a company's operations and use of investors' funds, that prevents investors from making informed investment decisions, and that misrepresents to investors the risk actually posed to their investment thwarts these important objectives.

8. In the course of their conduct, the Respondents failed to comply with the registration and prospectus requirements of Ontario securities law and, in doing so, breached important investor protection provisions. The registration requirements ensure that properly qualified and suitable individuals are permitted to engage in the business of trading in securities, ensuring honest and responsible conduct. Further, the prospectus requirements and available exemptions ensure that investors have appropriate information to enable them to properly assess risks and make fully informed investment decisions.

9. By disseminating documents to investors that contained information that was misleading or untrue and which impermissibly failed to disclose the material risks that the actual operations, practices and policies of MGMIC posed to investors' capital, the Respondents engaged in improper disclosure practices and fraudulent conduct that breached Ontario securities laws and undermined the integrity of Ontario's capital markets.

(b) The Respondents

10. MGMIC was incorporated in the province of Ontario in May 2014. It has a registered address located in Thornhill, Ontario. It is a mortgage investment entity, as such term is defined in CSA Staff Notice 31-323 *Guidance Relating to the Registration Obligations of Mortgage Investment Entities*, and lends capital for pooled residential and commercial mortgages. All of these mortgages are on underlying properties in Ontario.

11. Further, MGMIC represented to investors that it would conduct its affairs to qualify at all times as a mortgage investment corporation (**MIC**), as such term in defined in the *Income Tax Act*, R.S.C., 1985, c. 1, as amended (the **ITA**).

12. MGC was incorporated federally under the laws of Canada and registered extra-provincially in the province of Ontario in August 2007. It has a registered address located in Toronto, Ontario. MGC is licensed by the Financial Services Commission of Ontario (**FSCO**) as a mortgage brokerage and mortgage administrator. It operates as a mortgage administrator for MGMIC, finding and servicing the mortgages MGMIC lends on. It receives a fee from MGMIC for performing these services.

13. Ben is a director, officer and directing mind of MGMIC. He is the sole director of MGC and he is licensed by FSCO as the principal broker of MGC. He is a resident of Ontario.

14. Payam is a director, officer and a directing mind of MGMIC. He is licensed by FSCO as an agent with MGC. Payam is Ben's son. He is a resident of Ontario.

15. Neither MGMIC nor MGC is a reporting issuer in Ontario and neither has ever filed a preliminary prospectus and prospectus in Ontario. None of the Respondents has ever been registered with the Commission in any capacity.

(c) Conduct at Issue

(i) Unregistered Trading and Illegal Distribution

16. In 2014, the Principals began offering preferred shares in MGMIC to prospective investors. They offered the shares at a price of $1 per share and represented that investors would receive an annualized return of approximately 9% to 10% on their investment. Investors were told that dividends would be paid monthly to each shareholder or could be reinvested in a dividend reinvestment and share purchase program (**DRIP**). The preferred shares of MGMIC are "securities", as defined in subsection 1(1) of the Act.

17. MGMIC prepared five (5) offering memorandums (the **OMs**) in connection with the sale and distribution of its preferred shares to investors. The date of the initial OM is August 1, 2014 and four (4) revised versions followed on May 5, 2015, May 13 and May 30, 2016, and January 31, 2017. These OMs were provided to prospective investors and contained disclosure about the terms of the investment and the business practices and activities of MGMIC, including MGMIC's investment policies, which set out the terms and conditions under which MGMIC made investments.

18. The Principals actively solicited investors, discussing the investment opportunity in MGMIC during meetings with prospective investors, and answering questions that investors had about the opportunity. The Principals also prepared and provided marketing materials to prospective investors, which set out MGMIC's proposed investment activities and the terms of the investment. Solicitations to investors involved advertising via live presentations, websites, social media postings, and print materials. The Respondents executed formal subscription agreements with investors who purchased shares in MGMIC.

19. By engaging in this conduct, the Respondents traded and engaged in, or held themselves out as engaging in, the business of trading in MGMIC securities, in circumstances where there were no exemptions available under the Act, contrary to section 25 of the Act.

20. None of the Respondents has ever filed a preliminary prospectus and prospectus with the Commission or obtained a receipt to qualify the sale of MGMIC securities, contrary to section 53 of the Act. In distributing MGMIC securities, the Respondents did not properly rely on available exemptions to the prospectus requirements, as set out in National Instrument 45-106 *Prospectus Exemptions*.

(ii) Misleading Statements and Fraudulent Conduct

21. The OMs and marketing materials provided to investors, as well as other relevant documents, contained numerous misleading or untrue statements about (1) the controls and processes governing the business operations of MGMIC, including the process by which it made investment decisions, and (2) the lending parameters, practices and restrictions in place with respect to the investments in MGMIC's mortgage portfolio.

22. Failure by the Respondents to adhere to stated business practices and lending policies, which provided safeguards for investors, placed investors' capital at increased risk.

23. By engaging in the conduct described below, the Respondents perpetrated a fraud on investors by exposing investors' capital to higher risks than those disclosed. In addition, the Respondents made statements to investors in an offering document that were misleading or untrue in a material respect in the circumstances they were made, as follows:

1. Failure to Disclose the True Nature of MGMIC's Operations, Controls and Processes

Failure to Fulfill the Mandate of the MGMIC Credit Committee

24. The Respondents represented to investors that MGMIC only makes investment decisions, which include decisions relating to loans, borrowings, acquisitions and/or dispositions by MGMIC, if recommended by MGC and approved by the Credit Committee.

25. The mandate of the Credit Committee is to review all proposals and to approve or reject such proposals. According to the OMs, the Credit Committee was supposed to meet as required and no less than on a quarterly basis, to provide strategic guidance and direction.

26. However, the Credit Committee did not meet as required and did not review and approve many of the investments made by MGMIC, contrary to the disclosure provided to investors. The function of the Credit Committee was to provide oversight and supervision over MGMIC's investment decisions, when in reality this safeguard was absent.

Failure to Fulfill the Mandate of the MGMIC Investment Committee

27. The Respondents represented to investors that MGMIC established an Investment Committee to, among other things, (1) adjudicate and advise on transactions involving potential conflicts of interest and (2) approve or reject investments in mortgages which may adversely affect MGMIC's status as a MIC.

28. However, contrary to the disclosure provided to investors, the members of the Investment Committee did not appropriately review such transactions. The function of the Investment Committee was to provide oversight and supervision over MGMIC's lending practices, when in reality this safeguard was absent.

29. As a result, MGMIC invested in a number of mortgages involving potential conflicts of interest on properties owned, directly or indirectly, by the Principals and related parties.

MGMIC Did Not Qualify as a Mortgage Investment Corporation (MIC)

30. Throughout the Material Time, the Respondents represented to investors that MGMIC conducted its affairs to qualify at all times as a MIC, as defined in the ITA.

31. As a MIC, MGMIC would be subject to "special rules" under the ITA that would permit MGMIC to be operated, in effect, as a tax-free "flow through" conduit of its profit to shareholders. This meant that MGMIC would pay out substantially all of its net income and realized gains and would not be liable to pay income tax in any year. Further, as long as MGMIC qualified as a MIC, shares of MGMIC would be qualified investments for the purpose of registered retirement savings plans, deferred profit sharing plans, registered retirement income funds and registered education savings plans.

32. However, MGMIC did not qualify as a MIC from its inception until approximately mid-2016. In particular, notes to the fiscal 2015 and 2016 audited financial statements state that MGMIC did not meet the criteria to qualify as a MIC. Further, the 2016 audited financial statements state that MGMIC was in a taxable position for the relevant year.

33. No revisions to the OMs were made to reflect the fact that MGMIC did not qualify as a MIC and investors were never otherwise adequately informed. MGMIC's inability to maintain its tax status as a MIC jeopardized its ability to pay returns to shareholders and potentially meant adverse tax consequences for investors.

Undisclosed Control of MGMIC

34. Until May 30, 2016, the Respondents represented to investors that the Principals, along with one other individual, BG, were the directors and senior officers of MGMIC. Beginning May 30, 2016, the revised OMs disclose that the Principals were the sole directors and senior officers of MGMIC after BG left the company in April 2016.

35. However, in March 2016 Ben sent an email to BG stating that control of MGMIC rested with himself and two other individuals. The control and direction of MGMIC by these two individuals was not disclosed to investors in the previous or subsequent revised OMs. Further, MGMIC invested in mortgages on properties with potential conflicts of interest owned, directly or indirectly, by these two individuals, in contravention of its investment policies.

36. No revision to the OMs was made to reflect this undisclosed control over MGMIC and investors were never otherwise informed. No information was provided to investors about the management experience or qualifications of the other two individuals with whom actual control and direction over MGMIC rested, which restricted investors' ability to make a fully informed decision about the potential risks of investing in MGMIC.

2. Failure to Abide by MGMIC's Lending Parameters, Policies and Restrictions

Undisclosed Investment in Third Mortgages

37. Until January 2017, the Respondents represented to investors that MGMIC would invest in only certain types of mortgages, including builders' mortgages, first and second mortgages, development and construction mortgages, and term financing mortgages on income producing properties. The OMs stated that approximately 85% of its investments would be secured by second mortgages with the balance secured by first mortgages.

38. However, in April 2015 MGMIC made an investment in a third mortgage in the amount of $500,000 with respect to a property owned by one of the Principals located in Richmond Hill, Ontario (the **Richmond Hill Property**). The

Respondents applied investors' funds in a manner wholly inconsistent with the disclosure provided in the OMs by investing in a higher-risk third mortgage on a property owned by a related party.

Investment in Mortgages in Excess of Stated Size and Concentration

39. Until January 2017, the Respondents represented to investors that a "typical loan size" would range from $20,000 to $2 million with respect to the mortgages in MGMIC's portfolio. Similarly, marketing materials distributed by MGMIC stated that the mortgages provided by MGMIC would range from $20,000 to $1 million in value.

40. Further, the Respondents represented to investors that MGMIC established a policy that limited its credit exposure to any one borrowing group. To achieve this, the OMs provide that a maximum of 35% of MGMIC's assets may consist of mortgages on commercial and industrial properties and that a minimum of 50% of MGMIC's assets will consist of mortgages on residential properties.

41. However, contrary to the representations made to investors:

- In or around February 2016, MGMIC lent a total of approximately $2.4 million on an industrial property owned indirectly by a related party located in Timmins, Ontario (the **Timmins Property**).

- In June and July 2016, MGMIC lent a total of approximately $4 million on an industrial property owned indirectly by a related party located in Temiskaming Shores, Ontario (the **Temiskaming Property**).

42. These investments were in excess of the typical loan ranges disclosed to investors. Further, these investments accounted for 62% of MGMIC's total mortgage portfolio[1] and were significantly in excess of the stated maximum of 35% of MGMIC's assets that may consist of industrial or commercial properties. The Respondents applied investors' funds in a manner wholly inconsistent with the disclosure provided in the OMs by failing to limit its credit exposure and overexposing investors' funds to certain asset classes.

Lending Contrary to Terms of Commitment

43. In August 2015, MGMIC lent on a mortgage to a related party contrary to the terms of its own mortgage commitment on a condominium unit located in Toronto, Ontario (the **Lakeshore Property**). The commitment letter for this property required an appraisal of reflecting a minimum value of $1.65 million. The appraisal attributed a value of only $1.55 million. Regardless, MGMIC lent the full amount of the mortgage commitment.

44. In 2016, the terms of the mortgage commitment letters for the Temiskaming and Timmins Properties required marketability timelines of 60 to 90 days. The appraisals for these properties gave marketability timelines of 5 years, which reflected decreased marketability and therefore decreased liquidity for the properties. Regardless, MGMIC granted the mortgages on both properties.

45. MGMIC failed to follow its own internal lending parameters by not complying with the terms of its mortgage commitment documents. As a result, MGMIC created higher-risk lending circumstances in which there was insufficient value in the Lakeshore Property and decreased marketability and liquidity in the Temiskaming and Timmins Properties.

Investment in Mortgages in Excess of Appraised Values

46. The Respondents represented to investors that MGMIC attempted to minimize risk by being prudent in both its credit decisions and in assessing the value of the underlying real property offered as security. Further, the Respondents stated that MGMIC restricted its lending to mortgages where the maximum loan-to-value (**LTV**) ratio was 85% on second mortgages and 90% on bundled first and second mortgages.

47. However, the Respondents applied investors' funds in a manner wholly inconsistent with the disclosure provided in the OMs by investing in high-risk assets where the LTV ratio exceeded the stated maximums in the following instances:

- In April 2015, a third mortgage in the amount of $500,000 granted by MGMIC on the Richmond Hill Property caused the LTV ratio to exceed 100%. The appraisal on the Richmond Hill Property attributed a value of $2,150,000 while the addition of the $500,000 mortgage brought the total of the mortgages on the property to $2,284,566.

- As additional collateral for its mortgage on the Richmond Hill Property, MGMIC took security on a property owned by Ben located in Vaughan, Ontario (the **Vaughan Property**). However, the Vaughan Property

[1] As at March 2017

provided no additional collateral since the property was funded by mortgages totalling $1,750,729, which exceeded its appraised value.

48. Further, the mortgages on the Temiskaming and Timmins Properties also had LTV ratios in excess of the stated maximum. Although the Respondents caused appraisals to be done on the properties prior to granting the mortgages, the appraisals significantly overvalued both the Temiskaming and the Timmins Properties.

49. With respect to monitoring LTV ratios, the Respondents represented to investors that MGC would establish a database of comparative properties with similar characteristics to assess the LTV ratio of the portfolio as part of its ongoing risk management practices. Contrary to the disclosure provided to investors, this database was never established.

50. By engaging in the conduct described above, individually and collectively, each of the Respondents breached subsection 126.1(b) of the Act by directly or indirectly engaging in or participating in an act, practice or course of conduct relating to securities which they each knew, or reasonably ought to have known, would perpetrate a fraud on investors.

51. Further, each of the Respondents breached subsection 122(1)(b) of the Act by making statements in an offering document that, in a material respect and in the circumstances they were made, were misleading or untrue.

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

52. Enforcement Staff alleges the following breaches of Ontario securities law and/or conduct contrary to the public interest:

(a) The Respondents traded and engaged in, or held themselves out as engaging in, the business of trading in securities without being registered to do so, and where no exemption to the registration requirements of Ontario securities law was available, contrary to subsection 25(1) of the Act;

(b) The Respondents distributed securities where no preliminary prospectus and prospectus was issued or receipted under the Act, and where exemptions to the prospectus requirements of Ontario securities law were improperly relied upon, contrary to subsection 53(1) of the Act;

(c) The Respondents made statements in a document required to be furnished or filed under Ontario securities law that, in a material respect at the time and in light of the circumstances under which it is made, are misleading or untrue or do not state a fact that is required to be stated or that is necessary to make the statements not misleading, contrary to subsection 122(1)(b) of the Act;

(d) The Respondents engaged in or participated in acts, practices, or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to subsection 126.1(b) of the Act; and

(e) The Principals, as directors and officers of the corporate Respondents, authorized, permitted or acquiesced in the breaches by the corporate Respondents set out above, and, in doing so, are deemed to have not complied with Ontario securities law, pursuant to section 129.2 of the Act.

53. Enforcement Staff reserve the right to make such other allegations as Enforcement Staff may advise and the Commission may permit.

DATED at Toronto, December 19, 2017.

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Lawyer for Staff of the Ontario Securities Commission

1.5 Notices from the Office of the Secretary

1.5.1 Aurora Cannabis Inc. et al.

FOR IMMEDIATE RELEASE
December 20, 2017

AURORA CANNABIS INC.,
File No. 2017-71

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

CANNIMED THERAPEUTICS INC.,
File No. 2017-74

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on December 20, 2017 at 9:00 a.m. will be heard on December 20, 2017 at 1:00 p.m.

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 Assante Capital Management Ltd. and Assante Financial Management Ltd.

FOR IMMEDIATE RELEASE
December 21, 2017

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

TORONTO – Following a hearing held today, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Assante Capital Management Ltd. and Assante Financial Management Ltd.

A copy of the Order dated December 21, 2017, Settlement Agreement dated December 18, 2017 and Reasons For Approval of Settlement dated December 21, 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)

1.5.3 Money Gate Mortgage Investment Corporation et al.

FOR IMMEDIATE RELEASE
December 21, 2017

MONEY GATE MORTGAGE INVESTMENT CORPORATION,
MONEY GATE CORP.,
MORTEZA KATEBIAN and
PAYAM KATEBIAN,
File No. 2017-79

TORONTO – The Office of the Secretary issued a Notice of Hearing on December 21, 2017 setting the matter down to be heard on January 11, 2018, 2017 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter. The hearing will be held at the offices of the Commission at 20 Queen Street West, 17th Floor, Toronto, Ontario.

A copy of the Notice of Hearing dated December 21, 2017 and Statement of Allegations of Staff of the Ontario Securities Commission dated December 19, 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
416-593-8314
1-877-785-1555 (Toll Free)

1.5.4 John Richard Wolfenden

FOR IMMEDIATE RELEASE
December 22, 2017

JOHN RICHARD WOLFENDEN,
File No. 2017-76

TORONTO – The Office of the Secretary issued a Notice of Hearing to consider the Application dated November 22, 2017, made by the party named above to review a decision of Mutual Fund Dealers Association of Canada dated January 5, 2017.

The hearing will be held on January 15, 2018 at 10:00 a.m. on the 17th floor of the Commission's office located at 20 Queen Street West, Toronto.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 6(1) of the Commission's *Practice Guideline*.

A copy of the Notice of Hearing dated December 22, 2017 and the Application dated November 22, 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

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

1.5.5 The Mutual Fund Dealers Association of Canada

FOR IMMEDIATE RELEASE
December 22, 2017

THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA,
File No. 2017-75

TORONTO – The Office of the Secretary issued a Notice of Hearing to consider the Application dated November 1, 2017, made by the party named above to review a decision of Mutual Fund Dealers Association of Canada dated October 2, 2017.

The hearing will be held on January 15, 2018 at 10:00 a.m. on the 17th floor of the Commission's office located at 20 Queen Street West, Toronto.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 6(1) of the Commission's *Practice Guideline*.

A copy of the Notice of Hearing dated December 22, 2017 and the Application dated November 1, 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)

1.5.6 Aurora Cannabis Inc. et al.

FOR IMMEDIATE RELEASE
December 27, 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 22, 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)

1.5.7 Money Gate Mortgage Investment Corporation et al.

FOR IMMEDIATE RELEASE
December 29 2017

MONEY GATE MORTGAGE INVESTMENT CORPORATION, MONEY GATE CORP., MORTEZA KATEBIAN and PAYAM KATEBIAN

TORONTO – The Commission issued an Order in the above named matter which provides that pursuant to subsection 127(8) of the *Securities Act*, RSO 1990, c S.5, paragraph 1 of the Temporary Order is extended to January 12, 2018.

A copy of the Order dated December 29, 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)

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 RBC Global Asset Management Inc.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from subsection 5.1(a) of NI 81-105 to allow an investment fund manager to pay to a participating dealer direct costs incurred by the participating dealer relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer which has a primary purpose of providing educational information on financial planning matters.

Applicable Legislative Provisions

National Instrument 81-105 Mutual Fund Sales Practices, ss. 5.1(a), 9.1.

December 19, 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
RBC GLOBAL ASSET MANAGEMENT INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for relief from subsection 5.1(a) of National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) to permit the Filer to pay to a participating dealer direct costs incurred by the participating dealer relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer (collectively, the **Cooperative Marketing Initiatives** and each a **Cooperative Marketing Initiative**) if the primary purpose of the Cooperative Marketing Initiative is to promote or provide educational information concerning investing in securities and investment, retirement, tax and estate planning (collectively, **Financial Planning**) matters (the **Exemption Sought**).

Under 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 each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 or NI 81-105 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation formed by amalgamation under the federal laws of Canada and its head office is located in Toronto, Ontario.

2. The Filer is registered as an adviser in the category of portfolio manager and as a dealer in the category of exempt market dealer under the securities legislation of each of the Jurisdictions, as an investment fund manager in British Columbia, Newfoundland and Labrador, Ontario and Québec, and as a commodity trading manager in Ontario.

3. The Filer acts and may in the future act as investment fund manager in respect of various mutual funds (the **Funds**) governed by National Instrument 81-102 *Investment Funds*, the securities of which are qualified for distribution to investors in each of the Jurisdictions pursuant to various simplified prospectuses, as they may be amended or renewed from time to time.

4. Securities of the Funds are distributed by participating dealers in the Jurisdictions.

5. The Filer is a “member of the organization” (as that term is defined in NI 81-105) of the Funds, as the Filer is the manager of the Funds.

6. The Filer complies with NI 81-105, including Part 5 of NI 81-105, in respect of its marketing and educational practices.

7. The Filer is not in default of securities legislation in any of the Jurisdictions.

8. Under subsection 5.1(a) of NI 81-105, the Filer is permitted to pay direct costs incurred by a participating dealer where the purpose of the Cooperative Marketing Initiative is to promote or provide educational information about the Funds, the mutual fund family of which the Funds are members, or mutual funds generally.

9. Subsection 5.1(a) of NI 81-105 prohibits the Filer from paying direct costs incurred by a participating dealer relating to a Cooperative Marketing Initiative where the primary purpose is to provide educational information about Financial Planning matters. Consequently, the Filer is not permitted to sponsor the cost of sales communications, investor seminars or investor conferences prepared or presented by participating dealers where the main topics discussed include investment planning, retirement planning, tax planning and estate planning, each of which are aspects of Financial Planning.

10. The Filer and its affiliates have expertise in Financial Planning matters or may retain others with such expertise from time to time.

11. In addition to the topics currently permitted under subsection 5.1(a) of NI 81-105, the Filer wishes to sponsor Cooperative Marketing Initiatives where the primary purpose of the Cooperative Marketing Initiatives is to provide educational information concerning Financial Planning matters. The Filer will comply with subsections 5.1(b) to (e) of NI 81-105 in respect of such Cooperative Marketing Initiatives it sponsors.

12. Mutual funds typically form only a portion of an investor’s portfolio and should be considered in the broader context of the investor’s Financial Planning. Allowing the Filer to sponsor Cooperative Marketing Initiatives on Financial Planning matters may benefit investors as it may facilitate and potentially increase investors' access to educational information on such matters, which may in turn better equip them to make financial decisions that involve mutual funds.

13. Under sections 5.2 and 5.5 of NI 81-105, the Filer is permitted to sponsor the costs incurred by participating dealers in attending or organizing and presenting at conferences where the primary purpose is the provision of educational information on, among other things, financial planning.

14. Specifically, under subsection 5.2(a) of NI 81-105, the Filer is permitted to provide a non-monetary benefit to a representative of a participating dealer by allowing him or her to attend a conference or seminar organized and presented by the Filer where the primary purpose is the provision of educational information about, among other things, financial planning, investing in securities or mutual fund industry matters.

15. Similarly, under subsection 5.5(a) of NI 81-105, the Filer is permitted to pay to a participating dealer part of the direct costs the participating dealer incurs in organizing or presenting at a conference or seminar that is not an investor conference or investor seminar referred to in section 5.1 of NI 81-105, where the primary purpose is the provision of educational information about, among other things, financial planning, investing in securities or mutual fund industry matters.

16. The Filer will not require participating dealers to sell any of its Funds or other financial products to investors as a condition of the Filer's sponsorship of a Cooperative Marketing Initiative.

17. The Filer will pay for its sponsorship of a Cooperative Marketing Initiative out of its normal sources of revenue. Accordingly, the sponsorship cost will not be borne by the Funds.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, provided that in respect of a Cooperative Marketing Initiative whose primary purpose is to provide educational information concerning Financial Planning matters:

(a) the Filer otherwise complies with the requirements of subsections 5.1(b) through (e) of NI 81-105;

(b) the Filer does not require any participating dealer to sell any of its Funds or other financial products to investors;

(c) other than as permitted by NI 81-105, the Filer does not provide participating dealers and their representatives with any financial or other incentives for recommending any of its Funds to investors;

(d) the materials presented in a Cooperative Marketing Initiative concerning Financial Planning matters contain only general educational information about such matters;

(e) the Filer prepares or approves the content of the general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative it sponsors, and selects or approves an appropriately-qualified speaker for each presentation about such matters delivered in a Cooperative Marketing Initiative;

(f) any general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative contains an express statement that the content presented is for information purposes only, and is not providing advice to the attendees of the investor conference or investor seminar or the recipients of the sales communication, as applicable; and

(g) any general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative contains an indication of the types of professionals who may generally be qualified to provide advice on the subject matter of the information presented.

“Janet Leiper”
Commissioner
Ontario Securities Commission

“Frances Kordyback”
Commissioner
Ontario Securities Commission

2.1.2 Franklin Templeton Investments Corp. and Bissett Canadian Core Bond Trust

Headnote

National Policy 11-203 – relief granted from section 4.4 of National Instrument 81-106 Investment Fund Continuous Disclosure for the purposes of the relief requested from Form 81-106F1 Contents of Annual and Interim Management Report of Fund Performance, items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1, and Items 3(1) and 4 of Part C of Form 81-106F1, to permit a mutual fund to include in annual and interim management reports of fund performance the financial highlights and past performance of the fund that are derived from the fund's annual financial statements that pertain to time periods when the fund was not a reporting issuer.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 4.4, 17.1.
Form 81-0106F1 Contents of Annual and Interim Management Report of Fund Performance, Part B, Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2); Part C, Items 3(1) and 4.

December 18, 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
FRANKLIN TEMPLETON INVESTMENTS CORP.
(the Filer)

AND

IN THE MATTER OF
BISSETT CANADIAN CORE BOND TRUST
(the Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of the Fund for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting series O units the Fund (**Series O Units**) from:

(a) Section 4.4 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) for the purposes of relief requested herein from Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (**Form 81-106F1**); and

(b) Items 3.1(7) and 4.1(1) in respect of the requirement to comply with section 15.3(2) of National Instrument 81-102 *Investment Funds* (**NI 81-102**), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1 to permit the Fund to include, in its annual and interim management reports of fund performance (**MRFPs**), past performance data notwithstanding that such performance data relates to a period prior to the Fund offering its securities under a simplified prospectus.

(collectively, the **Relief Sought**).

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

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

(b) 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 by the Filer in each of the provinces of Canada and in the Yukon (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Fund is an open-ended mutual fund trust created under the laws of the Province of Ontario on October 5, 2009 (the **Inception Date**) and governed pursuant to a trust indenture dated July 31, 1996, as amended.

2. The Filer is a corporation amalgamated under the laws of the Province of Ontario having its head office in Toronto, Ontario.

3. The Filer is registered under securities legislation in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland & Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan and Yukon as a portfolio manager and as a dealer in the categories of mutual fund dealer and exempt market dealer. The Filer is also registered under securities legislation in Alberta, British Columbia, Manitoba, Newfoundland & Labrador, Nova Scotia, Ontario and Quebec as an investment fund manager. The Filer is the investment fund manager, promoter and portfolio manager of the Fund.

4. Since the Inception Date, Series O Units of the Fund were distributed to investors on a prospectus-exempt basis in accordance with National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) in the Jurisdictions.

5. The Fund intends to commence distributing its units pursuant to a simplified prospectus and, to that end, filed a preliminary simplified prospectus and annual information form dated September 22, 2017. Upon the issuance of a receipt for the final simplified prospectus and fund facts (the **Prospectus**) and annual information form of the Fund, the Fund will become a reporting issuer in each of the Jurisdictions, will become subject to the requirements of NI 81-102 and will be renamed Franklin Bissett Canadian Bond Fund. The Fund will also become subject to the requirements of NI 81-106 that apply only to investment funds that are reporting issuers.

6. The Filer and the Fund are not in default of securities legislation in any of the Jurisdictions.

7. Since the Inception Date, as a "mutual fund in Ontario", the Fund has prepared and sent annual and interim financial statements to all holders of its securities in accordance with NI 81-106.

8. Since the Inception Date, the Fund has complied with the investment restrictions and practices contained in NI 81-102, including not using leverage in the management of its portfolio.

9. The Fund will be managed substantially similarly after it becomes a reporting issuer as it was prior to becoming a reporting issuer. As a result of the Fund becoming a reporting issuer:

   (a) the Fund's investment objectives will not change, other than to provide additional detail as required by National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**);

   (b) Series O unitholders of the Fund will pay a negotiated management and administration fee that is less than the negotiated management fee and fund expenses they were paying previously; and

   (c) the day-to-day administration of the Fund in respect of Series O Units will not change other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which impact portfolio management of the Fund) and to provide additional features that are available to investors of mutual funds managed by the Filer, as described in the Prospectus.

10. As a reporting issuer, the Fund will be required under NI 81-106 to prepare and send MRFPs.

11. Without the Relief Sought, the MRFP of Series O Units of the Fund cannot include financial highlights and performance data that relates to a period prior to its becoming a reporting issuer.

12. The Filer also proposes to present the performance data of Series O Units of the Fund for the time period since the Inception Date in sales communications and fund facts. The Filer has filed a separate application for exemptive relief from certain provisions of NI 81-102 and Form 81-101F3 *Contents of Fund Facts Document* to enable the Fund to include, in sales communications and fund facts, performance data of the Series O Units of the Fund since the Inception Date (the **NI 81-102 and NI 81-101 Relief**).

13. The performance data and other financial data of the Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors of Series O Units of the Fund.

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 Relief Sought is granted provided that:

(a) any MRFP that includes performance data of Series O Units of the Fund relating to a period prior to when the Fund was a reporting issuer discloses:

  (i) that the Fund was not a reporting issuer during such period;

  (ii) that the financial statements of the Fund for such period are posted on the Fund's website and are available to investors upon request; and

  (iii) performance data of Series O Units of the Fund as applicable for the 10, 5, 3 and one year periods as well as since its inception until the since inception data includes a 10 year period;

(b) the Filer posts the financial statements of the Fund for the past 10 years, or since the Inception Date, whichever period is lesser, on the Fund's website and makes those financial statements available to investors upon request; and

(c) the Fund prepares sales communications and fund facts in accordance with the NI 81-102 and NI 81-101 Relief.

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

2.1.3 Franklin Templeton Investments Corp. and Bissett Canadian Core Bond Trust

Headnote

National Policy 11-203 – Relief granted from 15.3(2), 15.6(1)(a)(i) and 15.6(1)(d) of National Instrument 81-102 Investment Funds to permit a mutual fund, that has not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in their sales communications performance data for the period when the fund was not a reporting issuer – relief also granted from section 2.1 of National Instrument 81-101 Mutual Fund Prospectus Disclosure for the purposes of the relief requested from Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document, to permit the mutual fund to include in its fund facts for series O, the past performance data for the period when the fund was not a reporting issuer.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 15.3(2), 15.6(1)(a)(i), 15.6(1)(d), 19.1.
National Instrument 81-101 Investment Fund Prospectus Disclosure, s. 2.1.
Form 81-101F3 Contents of Fund Facts Document, Part I, Item 5.

December 18, 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
FRANKLIN TEMPLETON INVESTMENTS CORP.
(the Filer)

AND

IN THE MATTER OF
BISSETT CANADIAN CORE BOND TRUST
(the Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of the Fund for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting series O units of the Fund (**Series O Units**) from:

(a) Sections 15.3(2), 15.6(1)(a)(i) and 15.6(1)(d) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) to permit the Fund to include, with respect to its Series O Units, performance data in sales communications notwithstanding that

  (i) the performance data will relate to a period prior to the Fund offering its securities under a simplified prospectus; and

  (ii) the Fund has not distributed its securities under a simplified prospectus for 12 consecutive months,

(b) Section 2.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) for the purposes of the relief requested herein from Form 81-101F3 *Contents of Fund Facts Document* (**Form 81-101F3**), and

(c) Items 5(2), 5(3) and 5(4), and Instructions (1) and (5) of Part I of Form 81-101F3 in respect of the requirement to comply with sections 15.3(2), 15.6(1)(a)(i) and 15.6(1)(d) of NI 81-102 to permit the Fund to include in its fund facts the past performance data of Series O Units of the Fund notwithstanding that:

(i) such performance data relates to a period prior to the Fund offering its securities under a simplified prospectus; and

(ii) the Fund has not distributed its securities under a simplified prospectus for 12 consecutive months,

(collectively, the **Relief Sought**)

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

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

(b) 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 by the Filer in each of the provinces of Canada and in the Yukon (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Fund is an open-ended mutual fund trust created under the laws of the Province of Ontario on October 5, 2009 (the **Inception Date**) and governed pursuant to a trust indenture dated July 31, 1996, as amended.

2. The Filer is a corporation amalgamated under the laws of the Province of Ontario having its head office in Toronto, Ontario.

3. The Filer is registered under securities legislation in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland & Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan and Yukon as a portfolio manager and as a dealer in the categories of mutual fund dealer and exempt market dealer. The Filer is also registered under securities legislation in Alberta, British Columbia, Manitoba, Newfoundland & Labrador, Nova Scotia, Ontario and Quebec as an investment fund manager. The Filer is the investment fund manager, promoter and portfolio manager of the Fund.

4. Since the Inception Date, Series O Units of the Fund were distributed to investors on a prospectus-exempt basis in accordance with National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) in the Jurisdictions.

5. The Fund intends to commence distributing its units pursuant to a simplified prospectus and, to that end, filed a preliminary simplified prospectus and annual information form and fund facts dated September 22, 2017. Upon the issuance of a receipt for the final simplified prospectus (the **Prospectus**) and annual information form of the Fund, the Fund will become a reporting issuer in each of the Jurisdictions, will become subject to the requirements of NI 81-102 and will be renamed Franklin Bissett Canadian Bond Fund. The Fund will also become subject to the requirements of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) that apply only to investment funds that are reporting issuers.

6. The Filer and the Fund are not in default of securities legislation in any of the Jurisdictions.

7. Since the Inception Date, as a "mutual fund in Ontario", the Fund has prepared and sent annual and interim financial statements to all holders of its securities in accordance with NI 81-106.

8. Since the Inception Date, the Fund has complied with the investment restrictions and practices contained in NI 81-102, including not using leverage in the management of its portfolio.

9. The Fund will be managed substantially similarly after it becomes a reporting issuer as it was prior to becoming a reporting issuer. As a result of the Fund becoming a reporting issuer:

(a) the Fund's investment objectives will not change, other than to provide additional detail as required by NI 81-101;

(b) Series O unitholders of the Fund will pay a negotiated management and administration fee that is less than the negotiated management fee and fund expenses they were paying previously; and

(c) the day-to-day administration of the Fund in respect of Series O Units will not change other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which impact portfolio management of the Fund) and to provide additional features that are available to investors of mutual funds managed by the Filer, as described in the Prospectus.

10. The Filer proposes to present the performance data of Series O Units of the Fund for the time period since its Inception Date in sales communications and fund facts.

11. Without the Relief Sought, the sales communications pertaining to the Fund cannot include performance data that relates to a period prior to its becoming a reporting issuer.

12. Without the Relief Sought, sales communications pertaining to the Fund would not be permitted to include performance data until the Fund has distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months.

13. As a reporting issuer the Fund will be required under NI 81-101 to prepare and file fund facts.

14. The Filer proposes to include in the fund facts for Series O Units, past performance data in the chart required by items 5(2), 5(3) and 5(4) under the sub-headings "Year-by-year returns", "Best and worst 3-month returns" and "Average return", respectively, related to periods prior to the Fund becoming a reporting issuer in a Jurisdiction. Without the Relief Sought, the fund facts of the Fund cannot include performance data of the Fund that relate to a period prior to its becoming a reporting issuer.

15. As a reporting issuer, the Fund will be required under NI 81-106 to prepare and send annual and interim management reports of fund performance (individually, an **MRFP** and collectively, the **MRFPs**).

16. The Filer has filed a separate application for exemptive relief from certain provisions of NI 81-106 (the **NI 81-106 Relief**) to enable the Fund to include in its MRFPs the performance data of the Series O Units of the Fund since the Inception Date.

17. The performance data of the Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors of Series O Units of the Fund.

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 Relief Sought is granted provided that:

(a) any sales communication and any fund facts that contains performance data of Series O Units of the Fund relating to a period prior to when the Fund was a reporting issuer discloses:

(i) that the Fund was not a reporting issuer during such period; and

(ii) performance data of Series O Units of the Fund as applicable for 10, 5, 3 and one year periods as well as since its inception, until the since inception data includes a 10-year period; and

(b) the Fund prepares its MRFPs in accordance with the NI 81-106 Relief.

“Vera Nunes”
Manager
Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.4 H&R Real Estate Investment Trust and H&R Finance (2017) Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

NI 51-102 Continuous Disclosure Obligations, s.13.1 – real estate investment trust and finance trust want relief from Parts 4 and 5 of NI 51-102 in order to prepare, file and deliver combined financial statements in connection with stapled structure – finance trust analogous to credit support issuer (because continuous disclosure required under stapled structure similar to continuous disclosure required in credit supporter structure) – similar statutory exemptions are available to credit support issuers under section 13.4 of NI 51-102 – exemption granted subject to conditions substantially similar to conditions in section 13.4(2) of NI 51-102 new finance trust requesting relief from Parts 6 and 7 of NI 51-102 relating to annual information form and material change reports – exemption granted subject to conditions – real estate investment trust and finance trust want relief from Part 8 of NI 51-102 in order to assess significance based on, and file as part of business acquisition report, combined financial statements – exemption granted subject to conditions.

NI 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, s. 8.6 – real estate investment trust and finance trust requesting relief from certification requirements to accommodate stapled structure – exemption granted subject to conditions.

NI 52-110 Audit Committees, s. 8.1 – new finance trust wants relief from reporting obligations in connection with stapled structure – exemption granted subject to conditions including that new finance trust disclose the audit committee requirements described in Form 52-110F1 in a stand-alone document filed on SEDAR and that the reporting issuer trust satisfies and continues to satisfy the audit committee requirements.

NI 44-101 Short Form Prospectus Distributions, s. 8.1 – real estate investment trust and finance trust want relief from certain basic qualification criteria to accommodate stapled structure – exemption granted subject to conditions including that real estate investment trust and finance trust continue to comply with conditions of continuous disclosure relief.

NI 44-102 Shelf Distributions, s. 11.1 – real estate investment trust and finance trust want relief from certain shelf qualification criteria to accommodate stapled structure – exemption granted subject to conditions.

Securities Act (Ontario), s. 74(1) – new finance trust wants relief from the prospectus requirement in respect of certain trades and/or distributions in its securities to real estate investment trust employees – relief required in connection with stapled structure – new finance trust wants relief from the prospectus requirement in respect of certain trades and/or distributions in its securities in connection with the exercise of rights issued pursuant to unitholder rights plan of real estate investment trust – new finance trust wants relief from the prospectus requirement in respect of certain trades and/or distributions in its securities in connection with the exercise of rights issued pursuant to unitholder rights plan of real estate investment trust – new finance trust wants relief from the prospectus requirement in respect of certain trades and/or distributions in its securities in connection with the exercise of rights issued pursuant to unitholder rights plan of real estate investment trust – relief required in connection with stapled structure relief granted but conditional upon each unit of new finance trust being stapled to a unit of the trust and to trade as a stapled unit – the first trade of any security acquired as a result of any such trade shall be deemed to be a distribution under the legislation of the jurisdiction where the trade takes place unless the conditions in section 2.6(3) of National Instrument 45-102 Resale of Securities are satisfied.

Securities Act (Ontario), s.74(1) – relief from prospectus requirements to allow a trust to issue stapled trust units to existing holders of exchangeable units of certain partnerships controlled by the trust pursuant to a distribution reinvestment plan (DRIP) of the trust – Distributions made in respect of exchangeable units to be applied to the purchase of stapled trust units under the DRIP – relief required since exemption for DRIPs in National Instrument 45-106 Prospectus Exemptions is not available for use – exchangeable units are intended to be, to the greatest extent possible, the economic equivalent of stapled trust units – holders of exchangeable units are entitled to receive distributions paid by the partnerships that are equivalent to distributions paid by the trust on stapled trust units – exchangeable units are exchangeable into stapled trust units at any time – relief also granted to allow DRIP participants that are holders of exchangeable units to make optional cash payments to purchase additional stapled trust units – first trade relief granted for stapled trust units acquired under the decision, subject to certain conditions.

Securities Act (Ontario), ss.1(11)(b) – application related to reorganization of real estate investment trust and finance trust and establishment of a new finance trust – units of both trust and new finance trust will be "stapled units" trading together on the TSX – new finance trust requesting to be designated a reporting issuer by virtue of its units being stapled to units of another trust and trading together as stapled units on the TSX – exemption granted.

Applicable Legislative Provisions

National Instrument 44-101 Short Form Prospectus Distributions, ss. 2.2, 8.1.
National Instrument 44-102 Shelf Distributions, ss. 2.2, 11.1.

National Instrument 51-102 Continuous Disclosure Obligations, Parts 4, 5, 6, 7 and 8, s. 13.1.
National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, ss. 4.2, 5.2, 8.6.
National Instrument 52-110 Audit Committees, Part 5, s. 8.1.
Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(11)(b), 74(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
H&R REAL ESTATE INVESTMENT TRUST
("H&R REIT") ON ITS OWN BEHALF AND ON BEHALF OF
H&R FINANCE (2017) TRUST
("F17 Trust", and together with H&R REIT, the "Filers")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from H&R REIT and F17 Trust, the new trust that will result from the proposed reorganization of H&R REIT and H&R Finance Trust ("**H&R Finance**" and, together with H&R REIT, the "**Trusts**") by way of a plan of arrangement under the *Business Corporations Act* (Alberta) (the "**Reorganization**"), for a decision (the "**Requested Relief**") under the securities legislation of the jurisdiction of the principal regulator (the "**Legislation**") that:

Financial Disclosure Requirements

(a) pursuant to section 13.1 of National Instrument 51-102 – *Continuous Disclosure Obligations* ("**NI 51-102**"), H&R REIT be exempted from the obligations in Parts 4 and 5 of NI 51-102 relating to the filing of annual and interim financial statements, along with the accompanying annual or interim management's discussion and analysis ("**MD&A**"), on a stand-alone basis, and relating to the delivery of the same to the holders (the "**H&R REIT Unitholders**") of trust units ("**H&R REIT Units**") of H&R REIT (the "**H&R REIT Financial Disclosure Requirements**");

(b) pursuant to section 13.1 of NI 51-102, F17 Trust be exempted from the obligations in Parts 4 and 5 of NI 51-102 relating to the filing of annual and interim financial statements and MD&A, respectively, on a stand-alone basis, and relating to the delivery of the same to the holders ("**F17 Trust Unitholders**") of trust units ("**F17 Trust Units**") of F17 Trust (the "**F17 Trust Financial Disclosure Requirements**");

(c) pursuant to section 13.1 of NI 51-102, the Filers be exempted from the requirements of Part 8 of NI 51-102 to (i) determine whether an acquisition or probable acquisition is a significant acquisition with reference to stand-alone financial statements, and (ii) present stand-alone historical and *pro forma* financial statements in a BAR (as defined below) (the "**BAR Requirements**");

(d) pursuant to section 8.6 of National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings* ("**NI 52-109**"), the Filers be exempted from the requirements of sections 4.2 and 5.2 of NI 52-109 in respect of filing the chief executive officer and chief financial officer certificates that H&R REIT and F17 Trust would normally have to file if they prepared annual and interim financial statements and MD&A on a stand-alone basis (the "**Certificate Form Requirements**");

(e) pursuant to section 8.1 of National Instrument 52-110 – *Audit Committees* ("**NI 52-110**"), F17 Trust be exempted from the requirements set out in Part 5 of NI 52-110 (the "**Audit Committee Disclosure Requirements**");

Continuous Disclosure Requirements

(f) pursuant to section 13.1 of NI 51-102, F17 Trust be exempted from the requirements contained in parts 6 and 7 of NI 51-102 relating to annual information forms ("**AIFs**") and material change reports ("**MCRs**") respectively (collectively, the "**Specified Continuous Disclosure Requirements**");

Short Form / Shelf Qualification

(g) pursuant to section 8.1 of National Instrument 44-101 – *Short Form Prospectus Distributions* ("**NI 44-101**"), F17 Trust be exempted from the requirements contained in sections (d) and (e) of section 2.2 of NI 44-101 ("**F17 Trust Basic Qualification Criteria**");

(h) pursuant to section 8.1 of NI 44-101, H&R REIT be exempted from the requirements contained in sections (d)(i) and (e) of section 2.2 of NI 44-101 ("**H&R REIT Basic Qualification Criteria**");

(i) pursuant to section 11.1 of National Instrument 44-102 – *Shelf Distributions* ("**NI 44-102**"), subsections 2.2(3)(b)(i) of NI 44-102 (the "**Shelf Financial Qualification Criteria**") and 2.2(3)(b)(ii) of NI 44-102 (the "**Shelf AIF Qualification Criteria**", and together with the Shelf Financial Qualification Criteria, the "**F17 Trust Shelf Qualification Criteria**") do not apply to F17 Trust;

(j) pursuant to section 11.1 of NI 44-102, the Shelf Financial Qualification Criteria do not apply to H&R REIT (the "**H&R REIT Shelf Qualification Criteria**");

Prospectus Requirements

(k) F17 Trust be exempted from the prospectus requirements in respect of a trade of a F17 Trust Unit to an employee, executive officer, trustee or consultant (a "**REIT Employee**") of H&R REIT (the "**Employee Trade Relief**");

(l) F17 Trust be exempted from the prospectus requirements in respect of a trade of a F17 Trust Unit to F17 Trust Unitholders in connection with the exercise of rights issued pursuant to the Unitholder Rights Plan of H&R REIT (the "**URP Relief**");

(m) F17 Trust be exempted from the prospectus requirements in respect of a trade by F17 Trust of F17 Trust Units to a securityholder of H&R REIT in accordance with the terms and conditions of a security previously issued by H&R REIT (the "**REIT Securityholder Relief**"); and

(n) the Filers be exempt from the prospectus requirements in the Legislation in respect of any trade of New Stapled Units (as defined below) by the Filers (or a by a trustee, custodian or administrator acting for or on behalf of the Filers) to holders of units of certain subsidiary limited partnerships controlled by H&R REIT (the "**Subsidiary Partnerships**"), which will be exchangeable for New Stapled Units in accordance with their terms (the "**Exchangeable Units**"), under a distribution reinvestment plan and unit purchase plan (the "**DRIP**") under which distributions out of earnings, surplus, capital, or other sources payable to holders of Exchangeable Units in respect of the Exchangeable Units and optional cash payments by holders of Exchangeable Units are applied to the purchase of New Stapled Units ("**DRIP Exemption**"),

in each case provided that certain conditions are satisfied.

Reporting Issuer

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the Legislation that F17 Trust be designated a reporting issuer in the Jurisdiction upon completion of the Reorganization (the "**Reporting Issuer Designation**").

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 each of British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Prince Edward Island, New Brunswick, Newfoundland and Labrador and Nova Scotia (collectively, the "**Passport Jurisdictions**", and together with Ontario, the "**Jurisdictions**").

Interpretation

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

Representations

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

1. H&R REIT is an open-ended unincorporated real estate investment trust established under the laws of the Province of Ontario which owns a North American portfolio of office, industrial, residential and retail properties. The head office of H&R REIT is, and the head office of F17 Trust will be, located in Toronto, Ontario.

2. H&R Finance is an open-ended limited purpose unit trust established under the laws of the Province of Ontario which primarily invests in notes issued by H&R REIT (U.S.) Holdings Inc. ("**U.S. Holdco**"), an indirect wholly-owned subsidiary of H&R REIT. The head office of H&R Finance is located in Toronto, Ontario.

3. The Trusts are reporting issuers or the equivalent under the securities legislation of each Jurisdiction and are in compliance in all material respects with the applicable requirements of the securities legislation of each Jurisdiction.

4. As provided in the respective declarations of trust of H&R REIT and H&R Finance, each H&R REIT Unit is stapled to a trust unit of H&R Finance (an "**H&R Finance Unit**") (and each H&R Finance Unit is stapled to an H&R REIT Unit), and an H&R REIT Unit, together with an H&R Finance Unit, trades as a "Stapled Unit" (the "**Current Stapled Units**") until there is an "Event of Uncoupling" (the "**Current Stapled Structure**").

5. An Event of Uncoupling shall occur only: (a) in the event that unitholders of H&R REIT vote in favour of the uncoupling of H&R Finance Units and H&R REIT Units such that the two securities will trade separately; or (b) at the sole discretion of the trustees of H&R Finance, but only in the event of bankruptcy, insolvency, winding-up or reorganization (under an applicable law relating to insolvency) of H&R REIT or U.S. Holdco in furtherance of any such action or admitting in writing by H&R REIT or U.S. Holdco of its inability to pay its debts generally as they become due.

6. Provided that an Event of Uncoupling has not occurred, the declaration of trust of H&R REIT (the "**REIT Declaration of Trust**") provides that: (a) each REIT Unit may be transferred only together with an H&R Finance Unit, (b) no H&R REIT Unit may be issued by H&R REIT to any person unless (i) an H&R Finance Unit is simultaneously issued to such person, or (ii) H&R REIT has arranged that H&R REIT Units will be consolidated (subject to any applicable regulatory approval) immediately after such issuance, such that each holder of an H&R REIT Unit will hold an equal number of H&R REIT Units and H&R Finance Units immediately following such consolidation, and (c) a holder of Current Stapled Units may require H&R REIT to redeem any particular number of H&R REIT Units only if it also requires, at the same time, and in accordance with the provisions of the declaration of trust of H&R Finance (the "**H&R Finance Declaration of Trust**"), H&R Finance to redeem that same number of H&R Finance Units. Equivalent provisions are included in the H&R Finance Declaration of Trust.

7. Provided that an Event of Uncoupling has not occurred, in certain circumstances H&R REIT or H&R Finance (subject to any applicable regulatory approval) will be required to cause a corresponding change to simultaneously be made to, or in, the rights of holders of H&R REIT Units or H&R Finance Units, as the case may be, if there is a subdivision, combination, consolidation, reclassification, or similar such change in the rights of holders of interests of H&R REIT or H&R Finance, that would otherwise be inconsistent with the stapling.

8. H&R REIT is authorized to issue an unlimited number of H&R REIT Units and H&R Finance is authorized to issue an unlimited number of H&R Finance Units, and H&R REIT is authorized to issue 9,500,000 special voting units ("**Special Voting Units**"). As at November 6, 2017, the Trusts had 291,148,983 Current Stapled Units outstanding and H&R REIT had 9,500,000 Special Voting Units and $99.7 million principal amount of 5.90% Series D convertible unsecured subordinated debentures due June 30, 2020 (the "**2020 Convertible Debentures**") that are convertible into 4,240,510 Current Stapled Units, outstanding.

9. H&R Finance has four trustees, one of whom is appointed by H&R REIT, and three of whom are elected by unitholders and are independent of management of H&R Finance and H&R REIT. H&R Finance shares common management with H&R REIT. Under the H&R Finance Declaration of Trust, the undertaking of H&R Finance is restricted to:

   (a) investing in notes issued by U.S. Holdco to H&R Finance ("**U.S. Holdco Notes**");

   (b) making temporary investments held in cash, term deposits with a Canadian chartered bank or trust company registered under the laws of a province of Canada, short-term government debt securities or money market

instruments (including banker's acceptances) of, or guaranteed by, a Schedule 1 Canadian bank ("**Cash Equivalents**"), but only if each of the following conditions is satisfied: (i) if the Cash Equivalents have a maturity date, the Cash Equivalents must be held until maturity; (ii) the Cash Equivalents are required to fund expenses of H&R Finance, a redemption of H&R Finance Units, or distributions to holders of H&R Finance Units, in each case before the next distribution date; and (iii) the purpose of holding the Cash Equivalents is to prevent funds from being non-productive, and not to take advantage of market fluctuations;

(c) repurchasing and redeeming H&R Finance Units;

(d) issuing additional H&R Finance Units for cash or U.S. Holdco Notes; and

(e) undertaking such other usual and customary actions necessary for the conduct of the activities of H&R Finance in the ordinary course, as shall be approved by its trustees from time to time.

10. The proposed Reorganization will result in a stapled unit structure (the "**New Stapled Structure**") identical to the Current Stapled Structure, with a new trust, F17 Trust, effectively taking the place of H&R Finance. Following completion of the Reorganization and through a series of steps, holders of Current Stapled Units will, in lieu thereof, hold new "Stapled Units" (each consisting of one H&R REIT Unit and one F17 Trust Unit) (the "**New Stapled Units**") and will receive distributions from both H&R REIT and F17 Trust (instead of H&R REIT and H&R Finance) on a going forward basis. The H&R Finance Units will be acquired by H&R REIT, and H&R Finance will be dissolved and terminated as part of the Reorganization.

11. Joint meetings of unitholders of the Trusts were held on December 7, 2017 to approve the Reorganization. The voting unitholders of the Trusts approved the proposed Reorganization by the requisite majority, with approximately 99% of the voting unitholders of each of the Trusts, respectively, voting in favour of the Reorganization. The Reorganization is subject to the satisfaction or waiver of various closing conditions, including receipt of a final order of the Court of Queen's Bench of Alberta and an advance income tax ruling from the Canada Revenue Agency. Additional details regarding the Reorganization, including the reasons for the Reorganization, are set out in the joint management information circular of the Trusts dated October 31, 2017, which is available under each of the Trusts' profiles on the System for Electronic Document Analysis and Retrieval ("**SEDAR**").

12. F17 Trust will be established as an open-ended trust pursuant to a declaration of trust governed by the laws of Ontario (the "**F17 Declaration of Trust**"). Like H&R Finance, F17 Trust will have four trustees, one of whom will be appointed by H&R REIT, and three of whom will be elected by unitholders and be independent of management of F17 Trust and H&R REIT. F17 Trust will share common management with H&R REIT, as is currently the case with H&R Finance. Under the F17 Declaration of Trust, which will be substantially similar to the H&R Finance Declaration of Trust, the undertaking of F17 Trust will be restricted to:

(a) engaging in the transactions proposed under the Reorganization and investing in U.S. Holdco Notes;

(b) making temporary investments held in cash, term deposits with a Canadian chartered bank or trust company registered under the laws of a province of Canada, short-term government debt securities or money market instruments (including banker's acceptances) of, or guaranteed by, a Schedule 1 Canadian bank ("**F17 Trust Cash Equivalents**"), but only if each of the following conditions is satisfied: (i) if the F17 Trust Cash Equivalents have a maturity date, the F17 Trust Cash Equivalents must be held until maturity; (ii) the F17 Trust Cash Equivalents are required to fund expenses of F17 Trust, a redemption of F17 Trust Units, or distributions to holders of F17 Trust Units, in each case before the next distribution date; and (iii) the purpose of holding the F17 Trust Cash Equivalents is to prevent funds from being non-productive, and not to take advantage of market fluctuations;

(c) repurchasing and redeeming F17 Trust Units;

(d) issuing additional F17 Trust Units for cash or U.S. Holdco Notes; and

(e) undertaking such other usual and customary actions necessary for the conduct of the activities of F17 Trust in the ordinary course, as shall be approved by its trustees from time to time.

13. Pursuant to the Reorganization, the REIT Declaration of Trust, as amended and restated, and the F17 Declaration of Trust will contain provisions to achieve the "stapling" of the H&R REIT Units and the F17 Trust Units, which provisions will be substantially similar to the provisions contained in the REIT Declaration of Trust and H&R Finance Declaration of Trust to achieve the Current Stapled Structure. Provided that a New Stapled Unit Event of Uncoupling (as defined below) has not occurred, the REIT Declaration of Trust will provide that: (a) each H&R REIT Unit may be transferred only together with a F17 Trust Unit, (b) no H&R REIT Unit may be issued by H&R REIT to any person unless (i) a F17

Trust Unit is simultaneously issued by F17 Trust to such person, or (ii) H&R REIT has arranged that H&R REIT Units will be consolidated (subject to any applicable regulatory approval) immediately after such issuance, such that each holder of an H&R REIT Unit will hold an equal number of H&R REIT Units and F17 Trust Units immediately following such consolidation, and (c) a holder of New Stapled Units may require H&R REIT to redeem any particular number of H&R REIT Units only if it also requires, at the same time, and in accordance with the provisions of the F17 Declaration of Trust, F17 Trust to redeem that same number of F17 Trust Units. Equivalent provisions will be included in the F17 Declaration of Trust.

14. Provided that a New Stapled Unit Event of Uncoupling has not occurred, in certain circumstances H&R REIT or F17 Trust (subject to any applicable regulatory approval) will be required to cause a corresponding change to simultaneously be made to, or in, the rights of holders of H&R REIT Units or F17 Trust Units, as the case may be, if there is a subdivision, combination, consolidation, reclassification, or similar such change in the rights of holders of interests of H&R REIT or F17 Trust, that would otherwise be inconsistent with the stapling.

15. The H&R REIT Units and the F17 Trust Units will only become "uncoupled" (a "**New Stapled Unit Event of Uncoupling**"): (i) in the event that holders of H&R REIT Units and special voting units of H&R REIT vote in favour of the uncoupling of H&R REIT Units and F17 Trust Units such that the two securities will trade separately; or (b) at the sole discretion of the trustees of F17 Trust, but only in the event of the bankruptcy, insolvency, winding-up or reorganization (under an applicable law relating to insolvency) of H&R REIT or U.S. Holdco or the taking of corporate action by H&R REIT or U.S. Holdco in furtherance of any such action or the admitting in writing by H&R REIT or U.S. Holdco of its inability to pay its debts generally as they become due.

16. So long as the New Stapled Units are not unstapled, H&R REIT and F17 Trust together will file financial information on a combined basis. On a combined basis, the assets and liabilities relating to the U.S. Holdco Notes will be netted out. The assets and liabilities reflecting the U.S. Holdco Notes on the F17 Trust and H&R REIT financial statements, respectively, will be offsetting for holders of New Stapled Units because they will own interests in each of H&R REIT (on a consolidated basis) and F17 Trust. As such, financial statements prepared on a combined basis will reflect the appropriate offset of the assets and liabilities relating to the U.S. Holdco Notes and contain the relevant information for holders of New Stapled Units.

17. Accordingly, while the New Stapled Structure persists, H&R REIT and F17 Trust will prepare and file one set of financial statements prepared on a combined basis ("**Combined Financial Statements**") using the accounting principles applicable to H&R REIT and F17 Trust pursuant to the securities legislation of the Jurisdictions, in accordance with IFRS to reflect the financial position and results of H&R REIT and F17 Trust on a combined basis, along with corresponding MD&A. While IFRS do not specifically address the presentation of combined financial statements, H&R REIT and F17 Trust will be combined for these purposes because:

    (a) the H&R REIT Units and F17 Trust Units will be stapled, resulting in H&R REIT and F17 Trust being under common ownership;

    (b) a support agreement between H&R REIT and F17 Trust will ensure that until such time as an New Stapled Unit Event of Uncoupling occurs, when H&R REIT Units are issued by H&R REIT, F17 Trust Units must also be issued by F17 Trust simultaneously, so as to maintain the New Stapled Structure;

    (c) the sole activity of F17 Trust will be to provide capital funding to U.S. Holdco, a wholly-owned subsidiary of H&R REIT; and

    (d) the investment activities of F17 Trust are restricted in its declaration of trust to providing such funding to U.S. Holdco and to making temporary investments of excess funds.

18. Initially, the auditors of F17 Trust will be the same as the auditors of H&R REIT. Thereafter, auditors will be appointed by H&R REIT Unitholders and F17 Trust Unitholders, respectively, but the Filers expect that the same firm of auditors will continue to be nominated and appointed for both while the New Stapled Structure exists. H&R REIT has and F17 Trust will have an audit committee consisting of at least three independent trustees, in compliance with NI 52-110.

19. If the Filers rely on the requested relief from the F17 Trust Basic Qualification Criteria and the H&R REIT Basic Qualification Criteria, each joint short form prospectus, prospectus supplement or pricing supplement to a short from base shelf prospectus, or other similar public offering document filed by H&R REIT and F17 Trust, qualifying the distribution of securities of each issuer (a "**Joint Prospectus**"), will incorporate by reference at least the following documents (collectively, the "**Joint Prospectus Documents**"):

    (a) H&R REIT's then current AIF ("**H&R REIT's Current AIF**");

(b) (i) the then most recent audited annual Combined Financial Statements, along with the corresponding MD&A, or (ii) prior to the first filing of the Combined Financial Statements of H&R REIT and F17 Trust for a financial year, the then most recent audited annual combined financial statements of H&R REIT and H&R Finance, along with the corresponding MD&A;

(c) (i) if, at the date of the Joint Prospectus, H&R REIT or F17 Trust has filed or has been required to file interim financial statements for a period subsequent to the then most recent financial year-end of H&R REIT in respect of which annual financial statements have been filed, Combined Financial Statements relating to such interim period, along with the corresponding interim MD&A, or (ii) if such Joint Prospectus is filed prior to the filing of annual or interim financial statements and MD&A consisting of Combined Financial Statements and related MD&A, the combined financial statements of H&R REIT and H&R Finance for the most recent financial year and/or interim period, along with the corresponding MD&A;

(d) the content of any news release or other public communication that is publicly disseminated by, or on behalf of, either of the Filers prior to the filing of the Joint Prospectus through news release or otherwise and that contains historical financial information about one or both of the Filers for a period more recent than the end of the most recent period for which financial statements are required under paragraphs (b) and (c) above;

(e) any MCR of either of the Filers, other than a confidential MCR, filed by H&R REIT under Part 7 of NI 51-102 or by F17 Trust in accordance with the Specified Continuous Disclosure Requirements since the end of the financial year in respect of which H&R REIT's Current AIF is filed;

(f) any business acquisition report filed by either of the Filers under Part 8 of NI 51-102 (a "**BAR**") and in accordance with this decision for acquisitions completed since the beginning of the financial year in respect of which H&R REIT's Current AIF is filed, unless:

(i) the BAR is incorporated by reference in H&R REIT's Current AIF; or

(ii) at least nine months of the relevant business operations are reflected in annual financial statements required under paragraph (b) above;

(g) any information circular filed by either of the Filers or by H&R REIT and H&R Finance since the beginning of the financial year in respect of which H&R REIT's Current AIF is filed, other than an information circular prepared in connection with an annual general meeting of either of the Filers (or H&R REIT and H&R Finance) if such Filer has filed and incorporated by reference in the Joint Prospectus an information circular for a subsequent annual general meeting; and

(h) any other disclosure document which either of the Filers or, as applicable, H&R REIT and H&R Finance has filed pursuant to an undertaking to a provincial and territorial securities regulatory authority, or pursuant to an exemption from any requirement of securities legislation of a Canadian jurisdiction, since the beginning of the financial year in respect of which H&R REIT's Current AIF is filed.

20. If H&R REIT relies on the requested relief from the H&R REIT Basic Qualification Criteria, each short form prospectus, prospectus supplement or pricing supplement to a short from base shelf prospectus, or other similar public offering document of H&R REIT, or H&R REIT and F17 Trust jointly (each, a "**REIT Prospectus**"), will incorporate by reference at least the following documents (collectively, the "**REIT Prospectus Documents**"):

(a) H&R REIT's Current AIF;

(b) (i) the then most recent audited annual Combined Financial Statements, along with the corresponding MD&A, or (ii) prior to the first filing of the Combined Financial Statements of H&R REIT and F17 Trust for a financial year, the then most recent audited annual combined financial statements of H&R REIT and H&R Finance, along with the corresponding MD&A;

(c) (i) if, at the date of the REIT Prospectus, H&R REIT or F17 Trust has filed or has been required to file interim financial statements for a period subsequent to the then most recent financial year-end of H&R REIT in respect of which annual financial statements have been filed, Combined Financial Statements relating to such interim period, along with the corresponding interim MD&A, or (ii) if such REIT Prospectus is filed prior to the filing of annual or interim financial statements and MD&A for a year consisting of Combined Financial Statements and related MD&A, the combined financial statements of H&R REIT and H&R Finance for the most recent financial year and/or interim period, along with the corresponding MD&A;

(d) the content of any news release or other public communication that is publicly disseminated by, or on behalf of, H&R REIT prior to the filing of the REIT Prospectus through news release or otherwise and that contains historical financial information about H&R REIT for a period more recent than the end of the most recent period for which financial statements are required under paragraphs (b) and (c) above;

(e) any MCR, other than a confidential MCR, filed by H&R REIT under Part 7 of NI 51-102 since the end of the financial year in respect of which H&R REIT's Current AIF is filed;

(f) any BAR filed by H&R REIT under Part 8 of NI 51-102 and in accordance with this decision for acquisitions completed since the beginning of the financial year in respect of which H&R REIT's Current AIF is filed, unless:

(i) the BAR is incorporated by reference in H&R REIT's Current AIF; or

(ii) at least nine months of the relevant business operations are reflected in annual financial statements required under paragraph (b) above;

(g) any information circular filed by either of the Filers or by H&R REIT and H&R Finance since the beginning of the financial year in respect of which H&R REIT's Current AIF is filed, other than an information circular prepared in connection with an annual general meeting of either of the Filers (or H&R REIT and H&R Finance) if such Filer has filed and incorporated by reference in the REIT Prospectus an information circular for a subsequent annual general meeting; and

(h) any other disclosure document which either of the Filers or, as applicable, H&R REIT and H&R Finance has filed pursuant to an undertaking to a provincial and territorial securities regulatory authority, or pursuant to an exemption from any requirement of securities legislation of a Canadian jurisdiction, since the beginning of the financial year in respect of which H&R REIT's Current AIF is filed.

21. Because of the New Stapled Structure, on exercise by a REIT Employee of an option to acquire New Stapled Units or settlement of a REIT Employee's incentive units, both H&R REIT Units and F17 Trust Units must be issued. The Employee Trade Relief in respect of a trade of a F17 Trust Unit to a REIT Employee is necessary because F17 Trust is unable to rely upon the exemption in section 2.24 of NI 45-106 in respect of such a trade.

22. The relief requested in respect of a trade of a security of F17 Trust to F17 Trust Unitholders in connection with the exercise of rights issued pursuant to H&R REIT's Unitholder Rights Plan is necessary as such trade would not satisfy the requirement for the exemption in section 2.42of NI 45-106 that the trade be in accordance with the terms and conditions of a security previously issued by F17 Trust. The Unitholder Rights Plan is a plan of H&R REIT, not F17 Trust. However, such plan will provide for the issuance of New Stapled Units (i.e. consisting of both securities of H&R REIT and of F17 Trust).

23. H&R REIT has issued the 2020 Convertible Debentures and from time to time, H&R REIT may wish to issue additional securities that are convertible, exercisable or exchangeable into New Stapled Units. The REIT Securityholder Relief is necessary as the trade of F17 Trust Units to a securityholder of H&R REIT in accordance with the terms of a security previously issued by H&R REIT does not qualify for the exemption from the prospectus requirements in section 2.42 of NI 45-106. The REIT Securityholder Relief will allow H&R REIT the flexibility to offer additional convertible debentures and other exchangeable or convertible securities on equivalent terms as other issuers.

24. H&R REIT controls, either directly or indirectly, certain limited partnerships which issue, among other securities, units exchangeable at any time for Current Stapled Units (and, following completion of the Reorganization, New Stapled Units). These exchangeable units include the Class B Limited Participation LP units ("**HRLP Exchangeable Units**") of H&R Portfolio Limited Partnership, the Exchangeable GP units ("**HRRMSLP Exchangeable Units**") of H&R REIT Management Services Limited Partnership and exchangeable limited partnership units (the "**Primaris Exchangeable Units**") of Grant Park Limited Partnership and Place du Royaume Limited Partnership.

25. The HRLP Exchangeable Units, the HRRMSLP Exchangeable Units and the Primaris Exchangeable Units are each intended to be, to the greatest extent practicable, the economic equivalent of the Current Stapled Units and on completion of the Reorganization, the economic equivalent of the New Stapled Units.

26. H&R REIT first implemented the DRIP effective January 1, 2000. The DRIP has been amended and restated since on December 21, 2001, on October 1, 2008 following the internal reorganization of H&R REIT to establish H&R Finance and the Current Stapled Units, and further amended and restated on March 11, 2016 to allow Exchangeable Units to participate in the DRIP. The DRIP will be further amended and restated as a result of the Reorganization.

27. The Filers will be unable to rely on the exemption from the prospectus requirement in the Legislation with respect to reinvestment plans to distribute New Stapled Units under the amended and restated DRIP to holders of Exchangeable Units enrolled in the amended and restated DRIP since this exemption only permits distributions made in respect of an issuer's securities and optional cash payments by a holder of an issuer's securities to be applied to the purchase of the same issuer's securities.

28. The Trusts previously received relief substantially similar to the Requested Relief pursuant to the following prior decisions of the principal regulator: (i) *In the Matter of H&R Real Estate Investment Trust on its own behalf and on behalf of H&R Finance Trust* dated August 8, 2008, as varied by *In the Matter of H&R Real Estate Investment Trust on its own behalf and on behalf of H&R Finance Trust* dated September 12, 2008, (ii) *In the Matter of H&R Finance Trust* dated May 7, 2009, (iii) *In the Matter of H&R Finance Trust* dated July 24, 2009, (iv) *In the Matter of H&R Real Estate Investment Trust and H&R Finance Trust* dated October 24, 2013, (v) *In the Matter of the Securities Legislation of Ontario and in the Matter of the Process for Exemptive Relief Applications in Multiple Jurisdictions and in the Matter of H&R Real Estate Investment Trust and H&R Finance Trust* dated April 28, 2015, and (vi) *In the Matter of the Securities Legislation of Ontario and in the Matter of the Process for Exemptive Relief Applications in Multiple Jurisdictions and in the Matter of H&R Real Estate Investment Trust and H&R Finance Trust* dated March 11, 2016.

Decision

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

2. The decision of the principal regulator under the Legislation is that the Requested Relief is granted effective on completion of the Reorganization, provided that the Reorganization is implemented in substantially the manner contemplated by the representations above and provided that the conditions set out below are satisfied:

    (a) In respect of the H&R REIT Financial Disclosure Requirements and the F17 Trust Financial Disclosure Requirements:

        (i) H&R REIT files, under its SEDAR profile, Combined Financial Statements using IFRS to reflect the financial position and results of H&R REIT and F17 Trust on a combined basis;

        (ii) any Combined Financial Statements filed by H&R REIT include the components specified in sections 4.1(1) of NI 51-102 (for annual financial reporting periods) and 4.3(2) of NI 51-102 (for interim financial reporting periods);

        (iii) the Combined Financial Statements filed by H&R REIT provide in the notes thereto segmented financial information for each of F17 Trust and H&R REIT if and to the extent required under IFRS;

        (iv) the annual Combined Financial Statements filed by H&R REIT are audited;

        (v) the Combined Financial Statements filed by H&R REIT are accompanied by the fee, if any, applicable to filings of annual financial statements;

        (vi) the MD&A of H&R REIT is prepared with reference to the Combined Financial Statements;

        (vii) F17 Trust files a notice under its SEDAR profile indicating that it is relying on the financial statements and related MD&A filed by H&R REIT and directing readers to refer to H&R REIT's SEDAR profile;

        (viii) H&R REIT and F17 Trust continue to satisfy or be exempt from the requirements set out in NI 52-110;

        (ix) the audit committees of H&R REIT and F17 Trust are responsible for:

            (A) overseeing the work of the external auditors engaged for the purposes of auditing the Combined Financial Statements under IFRS; and

            (B) resolving disputes between the external auditors and management of both H&R REIT and F17 Trust regarding financial reporting;

        (x) H&R REIT continues to satisfy the requirements of section 4.6 of NI 51-102, except that for each financial reporting period in respect of which Combined Financial Statements are prepared, H&R

REIT shall only be required to send to H&R REIT Unitholders copies of the Combined Financial Statements and related MD&A;

(xi) the auditors of H&R REIT are the same as the auditors of F17 Trust, are appointed by H&R REIT Unitholders and F17 Trust Unitholders, respectively, and will continue to be nominated and appointed for both while the New Stapled Structure exists;

(xii) prior to filing its unaudited Combined Financial Statements for each interim period during its financial year ending December 31, H&R REIT and F17 Trust and their auditors have concluded that the preparation of the Combined Financial Statements are acceptable under IFRS;

(xiii) except for distributions of H&R REIT Units that are immediately followed by a consolidation of outstanding H&R REIT Units such that an equal number of H&R REIT Units and F17 Trust Units are outstanding immediately following such consolidation, (A) H&R REIT does not issue any units that are not stapled to F17 Trust Units, (B) each H&R REIT Unit is stapled to a F17 Trust Unit and trades as a New Stapled Unit, and (C) each F17 Trust Unit is stapled to a H&R REIT Unit and trades as a New Stapled Unit;

(xiv) except for distributions of F17 Trust Units that are immediately followed by a consolidation of outstanding F17 Trust Units such that an equal number of F17 Trust Units and H&R REIT Units are outstanding immediately following such consolidation, (A) F17 Trust does not issue any units that are not stapled to H&R REIT Units, (B) each F17 Trust Unit is stapled to an H&R REIT Unit and trades as a New Stapled Unit, and (C) each H&R REIT Unit is stapled to a F17 Trust Unit and trades as a New Stapled Unit; and

(xv) each New Stapled Unit is listed and posted for trading on the Toronto Stock Exchange (the "**TSX**").

(b) In respect of the BAR Requirements:

(i) H&R REIT and F17 Trust continue to satisfy the conditions set out in paragraph 2(a) above;

(ii) H&R REIT and F17 Trust apply the significance tests under Part 8 of NI 51-102 with reference to the Combined Financial Statements; and

(iii) if a BAR is required to be filed, the BAR includes, with respect to H&R REIT and F17 Trust, *pro forma* combined financial statements, prepared using IFRS used in the Combined Financial Statements of H&R REIT and F17 Trust.

(c) In respect of the Certificate Form Requirements:

(i) H&R REIT and F17 Trust continue to satisfy the conditions set out in paragraph 2(a) above;

(ii) the certificates filed by H&R REIT and F17 Trust in accordance with section 4.1 of NI 52-109, in connection with the filing of Combined Financial Statements prepared under IFRS for each annual financial reporting period in respect of which the H&R REIT Units are stapled to the F17 Trust Units, are substantially in the form required by section 4.2 of NI 52-109, except that the certificates refer to and certify matters in respect of the filing of H&R REIT's AIF and the Combined Financial Statements and related MD&A; and

(iii) the certificates filed by H&R REIT and F17 Trust in accordance with section 5.1 of NI 52-109, in connection with the filing of Combined Financial Statements prepared under IFRS for each interim financial reporting period in respect of which the H&R REIT Units are stapled to the F17 Trust Units, are substantially in the form required by section 5.2 of NI 52-109, except that the certificates refer to and certify matters in respect of the filing of Combined Financial Statements and related MD&A.

(d) In respect of the Audit Committee Disclosure Requirements;

(i) F17 Trust is exempt from or otherwise not subject to the Specified Continuous Disclosure Requirements;

(ii) each F17 Trust Unit is stapled to an H&R REIT Unit and trades as a New Stapled Unit;

(iii) F17 Trust discloses the audit committee information described in Form 52-110F1 in a stand-alone document filed in electronic format under its SEDAR profile;

(iv) F17 Trust includes a cross-reference to the stand-alone document described in (d)(iii) above in each management information circular in which, pursuant to section 5.2 of NI 52-110, F17 Trust would otherwise be required to provide a cross-reference to certain information as described in section 5.1 of NI 52-110; and

(v) H&R REIT satisfies and continues to satisfy the requirements set out in NI 52-110.

(e) In respect of the Specified Continuous Disclosure Requirements:

(i) except for distributions of H&R REIT Units that are immediately followed by a consolidation of outstanding H&R REIT Units such that an equal number of H&R REIT Units and F17 Trust Units are outstanding immediately following such consolidation, (A) H&R REIT does not issue any units that are not stapled to F17 Trust Units, (B) each H&R REIT Unit is stapled to a F17 Trust Unit and trades as a New Stapled Unit, and (C) each F17 Trust Unit is stapled to a H&R REIT Unit and trades as a New Stapled Unit;

(ii) except for distributions of F17 Trust Units that are immediately followed by a consolidation of outstanding F17 Trust Units such that an equal number of F17 Trust Units and H&R REIT Units are outstanding immediately following such consolidation, (A) F17 Trust does not issue any units that are not stapled to H&R REIT Units, and (B) each F17 Trust Unit is stapled to an H&R REIT Unit and trades as a New Stapled Unit, and (C) each H&R REIT Unit is stapled to a F17 Trust Unit and trades as a New Stapled Unit;

(iii) H&R REIT is a reporting issuer in a designated Canadian jurisdiction (as defined in section 13.4 of NI 51-102), complies with NI 51-102 or the conditions of any exemption therefrom and is an electronic filer under National Instrument 13-101 – *System for Electronic Document Analysis and Retrieval (SEDAR)* that has filed all documents it is required to file under NI 51-102 or under the conditions of any exemptions therefrom;

(iv) F17 Trust files a notice under its SEDAR profile indicating that it is relying on the AIFs and MCRs filed by H&R REIT and directing readers to refer to H&R REIT's SEDAR profile;

(v) H&R REIT complies with the requirements of the Legislation and the TSX in respect of making disclosure of material information on a timely basis and immediately issues and files a news release that discloses any material changes in its affairs;

(vi) F17 Trust has minimal or no assets, operations, revenues or cash flows other than those related to the issuance, administration and repayment of the New Stapled Units and investment in indebtedness issued by U.S. Holdco; and

(vii) F17 Trust complies with the requirements of the Legislation to issue a press release and file a MCR with the Jurisdictions upon the occurrence of a material change in respect of the affairs of F17 Trust that is not also a material change in the affairs of H&R REIT.

(f) in respect of the F17 Trust Basic Qualification Criteria:

(i) F17 Trust is exempt from or otherwise not subject to the Specified Continuous Disclosure Requirements;

(ii) F17 Trust continues to satisfy the conditions set out in paragraph 2(a) above;

(iii) F17 Trust satisfies the criteria in section 2.2 of NI 44-101 except for the requirements in subsections 2.2(d) and 2.2(e);

(iv) each New Stapled Unit is listed and posted for trading on a short form eligible exchange (as defined in NI 44-101); and

(v) each Joint Prospectus filed by H&R REIT and F17 Trust incorporates by reference the Joint Prospectus Documents.

(g) In respect of the H&R REIT Basic Qualification Criteria:

(i) H&R REIT is exempt from or otherwise not subject to the Specified Continuous Disclosure Requirements;

(ii) H&R REIT continues to satisfy the conditions set out in paragraph 2(a) above;

(iii) H&R REIT satisfies the criteria in section 2.2 of NI 44-101 except for the requirements in subsections 2.2(d)(i) and 2.2(e);

(iv) each New Stapled Unit is listed and posted for trading on a short form eligible exchange (as defined in NI 44-101);

(v) each Joint Prospectus filed by H&R REIT and F17 Trust incorporates by reference the Joint Prospectus Documents; and

(vi) each REIT Prospectus filed by H&R REIT, qualifying the distribution only of securities of H&R REIT, incorporates by reference the REIT Prospectus Documents.

(h) In respect of the F17 Shelf Qualification Criteria:

(i) F17 Trust qualifies for the relief contemplated by, and is in compliance with the requirements and conditions of the Specified Continuous Disclosure Requirements set out in paragraph 2(e) above;

(ii) F17 Trust continues to satisfy the conditions set out in paragraph 2(a) above; and

(iii) F17 Trust continues to satisfy the conditions set out in paragraph 2(f) above.

(i) In respect of the H&R REIT Shelf Qualification Criteria:

(i) H&R REIT continues to satisfy the conditions set out in paragraph 2(a) above; and

(ii) H&R REIT continues to satisfy the conditions set out in paragraph 2(g) above.

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

(j) In respect of the Employee Trade Relief and the URP Relief:

(i) the first trade of any security acquired as a result of such Requested Relief shall be deemed to be a distribution under the securities legislation of the Jurisdiction where the trade takes place unless the conditions in section 2.6(3) of NI 45-102 as they would apply to H&R REIT are satisfied; and

(ii) except for distributions of H&R REIT Units that are immediately followed by a consolidation of outstanding H&R REIT Units such that an equal number of H&R REIT Units and F17 Trust Units are outstanding immediately following such consolidation, (A) H&R REIT does not issue any units that are not stapled to F17 Trust Units, (B) each H&R REIT Unit is stapled to a F17 Trust Unit and trades as a New Stapled Unit, and (C) each F17 Trust Unit is stapled to a H&R REIT Unit and trades as a New Stapled Unit;

(iii) except for distributions of F17 Trust Units that are immediately followed by a consolidation of outstanding F17 Trust Units such that an equal number of F17 Trust Units and H&R REIT Units are outstanding immediately following such consolidation, (A) F17 Trust does not issue any units that are not stapled to H&R REIT Units, and (B) each F17 Trust Unit is stapled to an H&R REIT Unit and trades as a New Stapled Unit, and (C) each H&R REIT Unit is stapled to a F17 Trust Unit and trades as a New Stapled Unit.

(k) In respect of the REIT Securityholder Relief:

(i) the conditions in section 2.5 of 45-102 are satisfied, if the F17 Trust Units were acquired in accordance with the terms and conditions of a security previously issued by H&R REIT under: (A)

any of the circumstances listed in Appendix D of NI 45-102; or (B) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of NI 45-102;

(ii) the conditions in section 2.6 of NI 45-102 are satisfied, if the F17 Trust Units were acquired in accordance with the terms and conditions of a security previously issued by H&R REIT under: (A) any of the circumstances listed in Appendix E of NI 45-102; or (B) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of NI 45-102;

(iii) the following conditions are satisfied:

(A) a receipt was obtained for a prospectus qualifying the distribution of the convertible security, exchangeable security or multiple convertible security issued by H&R REIT;

(B) the trade is not a control distribution; and

(C) F17 Trust is a reporting issuer at the time of the trade; or

(iv) the following conditions are satisfied:

(A) a securities exchange take-over bid circular or a securities exchange issuer bid circular relating to a distribution of the convertible security, exchangeable security or multiple convertible security issued by H&R REIT was filed by the offeror on SEDAR;

(B) the trade is not a control distribution;

(C) the offeror was a reporting issuer on the date the securities of the offeree issuer were first taken up under the take-over bid or issuer bid; and

(D) F17 Trust is a reporting issuer at the time of the trade.

(l) In respect of the DRIP Exemption:

(i) at the time of the trade, the Subsidiary Partnerships continue to be controlled directly or indirectly by H&R REIT and H&R REIT is, directly or indirectly, the beneficial owner of all the issued and outstanding voting securities of the Subsidiary Partnerships;

(ii) the ability to purchase New Stapled Units under the Filers' DRIP for distributions out of earnings, surplus, capital, or other sources payable by the Subsidiary Partnerships or through optional cash payments made by holders of Exchangeable Units is available to every holder of Exchangeable Units in Canada;

(iii) for so long as the DRIP includes a cash payment option, the DRIP Exemption will only apply if (i) the aggregate number of New Stapled Units issued through optional cash payments does not exceed, in the financial year of the Filers during which the distribution takes place, 2% of the issued and outstanding New Stapled Units as at the completion of the Reorganization (for the remainder of the financial year in which the Reorganization occurs) and, thereafter, as at the beginning of the financial year, and (ii) the New Stapled Units trade on a marketplace (as defined in National Instrument 21-101 – *Marketplace Operation*); and

(iv) the first trade of any New Stapled Units acquired under this decision in the Jurisdictions will be deemed to be a distribution unless the conditions in subsection 2.6(3) of NI 45-102 are satisfied at the time of such first trade.

3. The further decision of the principal regulator under the Legislation is that following completion of the Reorganization, F17 Trust is a reporting issuer for the purposes of Ontario securities law.

"Anne Marie Ryan"
Commissioner
Ontario Securities Commission

"Robert P. Hutchison"
Commissioner
Ontario Securities Commission

2.1.5 1832 Asset Management L.P.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from paragraph 2.5(2)(b) of National Instrument 81-102 Investment Funds to allow mutual funds to invest in related ETFs that invest more than 10% in underlying mutual funds – The ETFs do not technically qualify as "clone funds" but operate in a manner that is substantially similar to a "clone fund." – Top fund must also comply with terms of relief granted from fund on fund restrictions to invest in ETFs that do not qualify as index participation units.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.5(2)(b), 19.1.

December 20, 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
1832 ASSET MANAGEMENT L.P.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of existing and future mutual funds that are managed by the Filer or an affiliate or associate of the Filer (the **Top Funds**), for a decision (the **Exemption Sought**) under the securities legislation of the principal regulator (the **Legislation**) exempting each Fund from the prohibition in subsection 2.5(2)(b) of National Instrument 81-102 *Investment Funds* (**81-102**) to permit each Top Fund to purchase and hold a security of a **Dynamic/BlackRock ETF** (as defined herein) that holds up to 100% of its net asset value (**NAV**) in securities of a corresponding **Underlying Fund** (as defined herein) (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

The Filer

1. The Filer is an Ontario limited partnership, which is wholly-owned by the Bank of Nova Scotia (**BNS**). The general partner of the Filer is 1832 Asset Management G.P. Inc., an Ontario corporation wholly-owned by BNS with its head office located in Toronto, Ontario.

2. The Filer is the manager of the Top Funds and is registered as: (i) a portfolio manager in all of the provinces of Canada and in the Northwest Territories and the Yukon; (ii) an exempt market dealer in all of the provinces of Canada (except Prince Edward Island and Saskatchewan); (iii) an investment fund manager in Ontario, Québec, Newfoundland and Labrador and the Northwest Territories; and (iv) a commodity trading manager in Ontario.

3. The Filer and the existing Top Funds are not in default of securities legislation in any of the Jurisdictions.

4. The Filer or an affiliate or associate of the Filer is, or will be, the investment fund manager of the Top Funds.

The Top Funds

5. Each Top Fund is, or will be, a mutual fund organized and governed by the laws of a Jurisdiction of Canada.

6. Each Top Fund distributes, or will distribute, some or all of its securities pursuant to a simplified prospectus prepared pursuant to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* and Form 81-101F1 *Contents of Simplified Prospectus* (**Form 81-101F1**) or a long form prospectus prepared pursuant to National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) and Form 41-101F2 *Information Required in an Investment Fund Prospectus* (**Form 41-101F2**) and is, or will be, governed by the applicable provisions of NI 81-102, subject to any exemptions therefrom that have been, or may in the future be, granted by the securities regulatory authorities.

7. Each Top Fund is, or will be, a reporting issuer in one or more Jurisdictions.

8. Each Top Fund is, or will be, subject to National Instrument 81-107 I*ndependent Review Committee for Investment* Funds (**NI 81-107**).

9. The investment objectives and investment strategies of each Top Fund permit it, or will permit it, to hold part or substantially all of its NAV directly in one or more other mutual funds. Pursuant to the terms of exemptive relief from certain provisions of section 2.5 of NI 81-102 that has been obtained by the Filer on behalf of the Top Funds in the form of a decision document dated December 20, 2017 (the **IPU Decision**), this may include investments in exchange traded mutual funds that are not index participation units.

10. Each Top Fund wishes to have the ability to invest up to 100% of its NAV in any one or more exchange traded mutual funds created and managed by BlackRock Asset Management Canada Limited, each of which provides, or will provide, investors with exposure to a corresponding Underlying Fund (the **Dynamic/BlackRock ETFs**).

The Dynamic/BlackRock ETFs

11. Each Dynamic/BlackRock ETF is, or will be, organized and governed by the laws of the Province of Ontario.

12. Each Dynamic/BlackRock ETF distributes, or will distribute, securities pursuant to a long form prospectus prepared in accordance with NI 41-101 and Form 41-101F2, and is, or will be, governed by the provisions of NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the securities regulatory authorities.

13. Each Dynamic/BlackRock ETF is, or will be, a reporting issuer in the provinces and territories of Canada in which its securities are distributed.

14. Securities of each Dynamic/BlackRock ETF are, or will be, listed on a recognized exchange in Canada and the market for them is liquid because it is supported by designated brokers and dealers. As a result, the Filer expects that the Top Funds would be able to dispose of its securities in any of the Dynamic/BlackRock ETFs through market facilities in order to raise cash, including to fund redemption requests.

15. Pursuant to its investment objectives and a cooperation services agreement dated November 18, 2016, between BlackRock Canada and the Filer (the **Cooperation Services Agreement**), each Dynamic/BlackRock ETF invests, or will invest, all or substantially all of its net assets in securities of a corresponding mutual fund created and managed by the Filer (each an **Underlying Fund** and collectively the **Underlying Funds**).

16. The prospectus of each Dynamic/BlackRock ETF discloses, or will disclose, in the investment objectives the name of the applicable Underlying Fund that the Dynamic/BlackRock ETF will primarily invest in. Any change resulting from a substitution of the Underlying Fund in the investment objectives of a Dynamic/BlackRock ETF will be treated as a fundamental change requiring prior approval of securityholders under Part 5 of NI 81-102.

17. The ultimate investment strategies and performance achieved by each Dynamic/BlackRock ETF will be substantially similar to the investment strategies and performance of its corresponding Underlying Fund.

The Underlying Funds

18. Each Underlying Fund is, or will be, a mutual fund organized and governed by the laws of the Province of Ontario.

19. Each Underlying Fund distributes, or will distribute, series O units pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1 and is, or will be, governed by the provisions of NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the securities regulatory authorities.

20. Each Underlying Fund is, or will be, a reporting issuer in the provinces and territories of Canada in which their securities are distributed.

21. Each Underlying Fund primarily invests directly in a portfolio of securities and/or other assets.

22. Pursuant to the Cooperation Services Agreement, series O units of each Underlying Fund are only sold to the corresponding Dynamic/BlackRock ETF and, accordingly, are not sold to the general public. Accordingly, the corresponding Dynamic/BlackRock ETF is, or will be, the sole unitholder of an Underlying Fund.

23. Pursuant to the Cooperation Services Agreement, each Underlying Fund has agreed to restrict its purchases and holding in securities of other investment funds to no more than 10% of its NAV.

24. No management fees are currently payable by the holders of series O units to the Filer.

Reasons for Exemption Sought

25. Absent the Exemption Sought, a Top Fund would not be able to purchase securities of a BlackRock/Dynamic ETF that invests substantially all of its assets in securities of an Underlying Fund because subsection 2.5(2)(b) of NI 81-102 prohibits an investment fund from purchasing or holding a security of another investment fund that holds more than 10% of its NAV in securities of other investment funds.

26. The investment objectives of each Dynamic/BlackRock ETF are not expressly limited to tracking the performance of the applicable Underlying Fund as per the definition of a “clone fund” in NI 81-102. As a result, an investment by a Top Fund in a Dynamic/BlackRock ETF does not qualify for the exception in paragraph 2.5(4)(a) of NI 81-102, as the Dynamic/BlackRock ETFs does not meet the strict definition of “clone fund” since they have not adopted a fundamental investment objective to track the performance of another investment fund.

27. Although each Dynamic/Blackrock ETF does not technically fit within the definition of “clone fund”, by having investment objectives and strategies that permit it to invest substantially all of its net assets in the securities of its corresponding Underlying Fund, each Dynamic BlackRock ETF operates in a manner that is substantially similar to a “clone fund”. The Exemption Sought, therefore, will result in a fund of fund structure that is akin to, and no more complex than, the three-tier structure currently permitted under subsection 2.5(4)(a) of NI 81-102.

28. An investment in a Dynamic/BlackRock ETF by a Top Fund should pose little investment risk to the Top Fund because the Dynamic/BlackRock ETFs and the corresponding Underlying Funds are both subject to NI 81-102, subject to any exemption therefrom that has been, or may in the future be, granted by the securities regulatory authorities.

29. In accordance with subsection 2.5(2)(d) of NI 81-102, no management or incentive fees are, or will be, payable by a Top Fund or a Dynamic/BlackRock ETF that would duplicate a fee payable by the other investment fund for the same service. As there is no management fee payable by the series O units of the Underlying Funds, the fee structure is not complex and easily monitored by the Filer for compliance.

30. Each Top Fund will comply with the requirement under National Instrument 81-106 *Continuous Disclosure* relating to the top 25 positions portfolio holdings disclosure in its management report of fund performance and the requirements of Form 81-101F3 *Contents of Fund Facts Document* relating to top 10 position portfolio holdings disclosure in its Fund Facts as if the Top Fund were investing directly in the Underlying Fund held by the corresponding Dynamic/BlackRock ETFs.

31. An investment by a Top Fund in a Dynamic/BlackRock ETF will represent the business judgement of responsible persons of the Top Funds, uninfluenced by considerations other than the best interests of the Top Funds.

Decision

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

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

1. An investment by a Top Fund in securities of a Dynamic/BlackRock ETF is in accordance with the investment objectives of the Top Fund;

2. An investment by a Top Fund in securities of a Dynamic/BlackRock ETF complies with the terms and conditions of the IPU Decision, other than in respect of the Exemption Sought;

3. A Top Fund does not invest in a Dynamic/BlackRock ETF that in turn invests in another investment fund other than the Underlying Fund that is identified in the investment objectives of the Dynamic/BlackRock ETF;

4. The Cooperation Agreement remains in effect; and

5. The prospectus of each Top Fund discloses, or will disclose in the next renewal of its prospectus following the date of this decision, the fact that the Top Fund has obtained the Exemption Sought.

“Darren McKall”
Manager,
Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.6 Counsel Portfolio Services Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – fund family relief from the requirement to send a printed information circular to registered holders of the securities of an investment fund – relief subject to conditions, including sending an explanatory document in lieu of the printed information circular and giving securityholders the option to request and obtain at no charge a printed information circular – notice-and-access for investment funds – National Instrument 81-106 Investment Fund Continuous Disclosure.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, s. 12.2(2)(a).

December 14, 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
COUNSEL PORTFOLIO SERVICES INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of existing and future investment funds that are or will be managed from time to time by the Filer or by a successor of the Filer (the **Funds**), for a decision under the securities legislation of the Jurisdiction (the **Legislation**) granting an exemption from the requirement contained in paragraph 12.2(2)(a) of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) for a person or company that solicits proxies, by or on behalf of management of a Fund, to send an information circular to each registered holder of securities of a Fund whose proxy is solicited, and instead allow the Funds to send a Notice-and-Access Document (as defined in condition 1 of this decision) using the Notice-and-Access Procedure (as defined in condition 2 of this decision) (the **Exemption Sought**).

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) and National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (**NI 54-101**) have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filer and the Funds

1. The Filer is a corporation formed by articles of incorporation under the laws of Ontario with its head office in Mississauga, Ontario.

2. The Filer is registered (i) as an adviser in the category of portfolio manager under the *Securities Act* (Ontario); (ii) as an investment fund manager in each of Ontario, Québec and Newfoundland & Labrador and (iii) as an adviser in the category of commodity trading manager under the *Commodity Futures Act*.

3. The Funds are, or will be, managed by the Filer or by an affiliate or successor of the Filer.

4. The Funds are, or will be, investment funds and are, or will be, reporting issuers in one or more of the Jurisdictions.

5. Neither the Filer, nor any of the existing Funds is in default of any of the requirements of securities legislation in any of the Jurisdictions.

Meetings of Securityholders of the Funds

6. Pursuant to applicable legislation, the Filer must call a meeting of securityholders of each Fund from time to time to consider and vote on matters requiring securityholder approval.

7. In connection with a meeting of securityholders, a Fund is required to comply with the requirements in NI 81-106 regarding the sending of proxies and information circulars to registered holders of its securities, which include a requirement that each person or company that solicits proxies by or on behalf of management of a Fund send, with the notice of meeting, to each registered holder of securities of a Fund whose proxy is solicited, an information circular, prepared in compliance with the requirements of Form 51-102F5 *Information Circular* of NI 51-102, to securityholders of record who are entitled to receive notice of the meeting.

8. A Fund is also required to comply with NI 51-102 for communicating with registered holders of its securities, and to comply with NI 54-101 for communicating with beneficial owners of its securities.

Notice-and-Access Procedure – Corporate Finance Issuers

9. Section 9.1.1 of NI 51-102 permits, if certain conditions are met, a reporting issuer that is not an investment fund to use the notice-and-access procedure and send, instead of an information circular, a notice to each registered holder of its securities that contains certain specific information regarding the meeting and an explanation of the notice-and-access procedure.

10. Section 2.7.1 of NI 54-101 permits a reporting issuer that is not an investment fund to use a similar procedure to communicate with each beneficial owner of its securities.

Reasons supporting the Exemption Sought

11. A meeting of investment fund securityholders is no different than a meeting of corporate finance securityholders. As a result, if the notice-and-access procedure set forth in NI 51-102 and in NI 54-101 can be used by a corporate finance issuer for a meeting of its securityholders in order to send a notice-and-access document instead of an information circular, it would not be detrimental to the protection of investors to allow an investment fund to also use the Notice-and-Access Procedure to send a Notice-and-Access Document, instead of the information circular.

12. With the Exemption Sought, securityholders will maintain the same access to the same quality of disclosure material currently available. Without limiting the generality of the foregoing:

    (a) all securityholders of record entitled to receive an information circular will receive instructions on how to access the information circular and will be able to receive a printed copy, without charge, if they so desire; and

    (b) the conditions to the Exemption Sought mandate that the Notice-and-Access Document will be sent to securityholders sufficiently in advance of a meeting so that if a securityholder wishes to receive a printed copy of the information circular, there will be sufficient time for the Filer, directly or through the Filer's agent, to send the information circular.

13. With the Notice-and-Access Procedure, no securityholder will be deprived of their ability to access the information circular in his/her preferred manner of communication.

14. In accordance with the Filer's standard of care owed to the relevant Fund pursuant to applicable legislation, the Filer will only use the Notice-and-Access Procedure for a particular meeting where it has concluded it is appropriate and consistent to do so, also taking into account the purpose of the meeting and whether the Fund would obtain a better participation rate by sending the information circular with the other proxy-related materials.

15. There are significant costs involved in the printing and delivery of the proxy-related materials, including information circulars, to securityholders in the Funds, and in certain cases, the Filer.

Decision

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

The decision of the Principal Regulator under the Legislation is that the Exemption Sought is granted, provided that in respect of each Fund or the Filer soliciting proxies by or on behalf of management of a Fund:

1. The registered holders or beneficial owners, as applicable, of securities of the Fund are sent a document that contains the following information and no other information (the **Notice-and-Access Document**):

    (a) the date, time and location of the meeting for which the proxy-related materials are being sent;

    (b) a description of each matter or group of related matters identified in the form of proxy to be voted on unless that information is already included in a Form 54-101F6 *Request for Voting Instructions Made by Reporting Issuer* (**Form 54-101F6**) or Form 54-101F7 *Request for Voting Instructions Made by Intermediary* (**Form 54-101F7**) as applicable, that is being sent to the beneficial owner of securities of the Fund under condition (2)(c) of this decision;

    (c) the website addresses for SEDAR and the non-SEDAR website where the proxy-related materials are posted;

    (d) a reminder to review the information circular before voting;

    (e) an explanation of how to obtain a paper copy of the information circular and, if applicable, the financial statements of the Fund;

    (f) a plain-language explanation of the Notice-and-Access Procedure that includes the following information:

        (i) the estimated date and time by which a request for a paper copy of the information circular and, if applicable, the financial statements of the Fund, is to be received in order for the registered holder or beneficial owner, as applicable, to receive the paper copy in advance of any deadline for the submission of voting instructions for the meeting;

        (ii) an explanation of how the registered holders or the beneficial owners, as applicable, of securities of the Fund are to return voting instructions, including any deadline for return of those instructions;

        (iii) the sections of the information circular where disclosure regarding each matter or group of related matters identified in the Notice-and-Access Document can be found; and

        (iv) a toll-free telephone number the registered holders or the beneficial owners, as applicable, of securities of the Fund can call to get information about the Notice-and-Access Procedure.

2. The Filer, on behalf of the Fund, sends the Notice-and-Access Document in compliance with the following procedure (the **Notice-and-Access Procedure**), in addition to any and all other applicable requirements:

    (a) the proxy-related materials are sent a minimum of 30 days before a meeting and a maximum of 50 days before a meeting;

    (b) if the Fund sends proxy-related materials:

(i) directly to a NOBO using the Notice-and-Access Procedure, then the Fund must send the Notice-and-Access Document and, if applicable, any paper copies of information circulars and the financial statements, at least 30 days before the date of the meeting; and

(ii) indirectly to a beneficial owner using the Notice-and-Access Procedure, then the Fund must send the Notice-and-Access Document and, if applicable, any paper copies of information circulars and the financial statements to the proximate intermediary (A) at least 3 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent on by the proximate intermediary by first class mail, courier or the equivalent, or (B) at least 4 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent using any other type of prepaid mail;

(c) using the procedures referred to in section 2.9 or 2.12 of NI 54-101, as applicable, the beneficial owner of securities of the Fund is sent, by prepaid mail, courier or the equivalent, the Notice-and-Access Document and a Form 54-101F6 or Form 54-101F7, as applicable;

(d) the Filer, on behalf of the Fund, files on SEDAR the notification of meeting and record dates on the same date that it sends the notification of meeting date and record date pursuant to subsection 2.2(1) of NI 54-101 (as such time may be abridged);

(e) public electronic access to the information circular and the Notice-and-Access Document is provided on or before the date that the Notice-and-Access Document is sent to registered holders or to beneficial owners, as applicable, of securities of the Fund in the following manner:

(i) the information circular and the Notice-and-Access Document are filed on SEDAR; and

(ii) the information circular and the Notice-and-Access Document are posted until the date that is one year from the date that the documents are posted, on a website of the Filer or the Fund;

(f) a toll-free telephone number is provided for use by the registered holders or beneficial owners, as applicable, of securities of the Fund to request a paper copy of the information circular and, if applicable, the financial statements of the Fund, at any time from the date that the Notice-and-Access Document is sent to the registered holders or the beneficial owners, as applicable, up to and including the date of the meeting, including any adjournment;

(g) if a request for a paper copy of the information circular and, if applicable, the financial statements of the Fund, is received at the toll-free telephone number provided in the Notice-and-Access Document or by any other means, a paper copy of any such document requested is sent free of charge to the registered holder or beneficial owner, as applicable, at the address specified in the request in the following manner:

(i) in the case of a request received prior to the date of the meeting, within 3 business days after receiving the request, by first class mail, courier or the equivalent; and

(ii) in the case of a request received on or after the date of the meeting, and within one year of the date the information circular is filed on SEDAR, within 10 calendar days after receiving the request, by prepaid mail, courier or the equivalent;

(h) a Notice-and-Access Document is only accompanied by:

(i) a form of proxy;

(ii) if applicable, the financial statements of the Fund to be presented at the meeting; and

(iii) if the meeting is to approve a reorganization of the Fund with a mutual fund, as contemplated by paragraph 5.1(1)(f) of NI 81-102 *Investment Funds*, the Fund Facts document for the continuing mutual fund;

(i) a Notice-and-Access Document may only be combined in a single document with a form of proxy;

(j) if the Filer, directly or through the Filer's agent, receives a request for a copy of the information circular and if applicable, the financial statements of the Fund, using the toll-free telephone number referred to in the Notice-and-Access Document or by any other means, it must not do any of the following:

(i) ask for any information about the registered holder or beneficial owner, other than the name and address to which the information circular and, if applicable, the financial statements of the Fund are to be sent; and

(ii) disclose or use the name or address of the registered holder or beneficial owner for any purpose other than sending the information circular and, if applicable, the financial statements of the Fund;

(k) the Filer, directly or through the Filer's agent, must not collect information that can be used to identify a person or company who has accessed the website address to which it posts the proxy-related materials pursuant to condition (2)(e)(ii) of this decision;

(l) in addition to the proxy related materials posted on a website in the manner referred to in condition (2)(e)(ii) of this decision, the Filer must also post on the website the following documents:

(i) any disclosure document regarding the meeting that the Filer, on behalf of the Fund, has sent to registered holders or beneficial owners of securities of the Fund; and

(ii) any written communications the Filer, on behalf of the Fund, has made available to the public regarding each matter or group of matters to be voted on at the meeting, whether or not they were sent to registered holders or beneficial owners of securities of the Fund;

(m) materials that are posted on a website pursuant to condition (2)(e)(ii) of this decision must be posted in a manner and be in a format that permit an individual with a reasonable level of computer skill and knowledge to do all of the following easily:

(i) access, read and search the documents on the website; and

(ii) download and print the documents;

(n) despite subsection 2.1(b) of NI 54-101, if the Fund relies upon this decision, it must set a record date for notice that is no fewer than 40 days before the date of the meeting;

(o) in addition to section 2.20 of NI 54-101, the Fund may only abridge the time prescribed in subsection 2.1(b), 2.2(1) or 2.5(1) of NI 54-101 if the Fund fixes the record date for notice to be at least 40 days before the date of the meeting and sends the notification of meeting and record dates at least 3 business days before the record date for notice;

(p) the notification of meeting date and record date sent pursuant to subsection 2.2(1)(b) of NI 54-101 shall specify that the Fund is sending proxy-related materials to registered holders or beneficial owners, as applicable, of securities of the Fund using the Notice-and-Access Procedure pursuant to the terms of this decision;

(q) the Filer, on behalf of the Fund, provides disclosure in the information circular to the effect that the Fund is sending proxy-related materials to registered holders or beneficial owners, as applicable, of securities of the Fund using the Notice-and-Access Procedure pursuant to the terms of this decision; and

(r) the Filer pays for delivery of the information circular and, if applicable, the financial statements of the Fund, to registered holders or to beneficial owners, as applicable, of securities of the Fund if a copy of such material is requested following receipt of the Notice-and-Access Document.

The Exemption Sought terminates on the coming into force of any legislation or regulation allowing an investment fund to use a notice-and-access procedure.

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

2.1.7 Firm Capital Mortgage Investment Corporation and Canaccord Genuity Corp.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for exemptive relief to permit issuer and underwriter, acting as agent for the issuer, to enter into an equity distribution agreement to make "at the market" (ATM) distributions of common shares over the facilities of the TSX or other Canadian marketplace – ATM distributions to be made pursuant to shelf prospectus procedures in Part 9 of NI 44-102 Shelf Distributions – issuer will issue a press release and file agreements on SEDAR – application for relief from prospectus delivery requirement – delivery of prospectus not practicable in circumstances of an ATM distribution – relief from prospectus delivery requirement has effect of removing two-day right of withdrawal and remedies of rescission or damages for non-delivery of the prospectus – application for relief from certain prospectus form requirements – relief granted to permit modified forward-looking certificate language – relief granted on terms and conditions set out in decision document – decision will terminate 25 months after the issuance of a receipt for the shelf prospectus. Decision and application also held in confidence by decision makers until the earlier of the entering into of an equity distribution agreement, waiver of confidentiality or 90 days from the date of the decision.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71, 147.

August 25, 2017

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

AND

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

AND

IN THE MATTER OF
FIRM CAPITAL MORTGAGE INVESTMENT CORPORATION
(the Issuer)

AND

CANACCORD GENUITY CORP.
(the Agent) (and together with the Issuer, the Filers)

DECISION

Background

The Ontario Securities Commission (the **Decision Maker**) has received an application (the **Application**) from the Filers for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for the following relief (the **Exemption Sought**):

(a) that the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement applies, deliver to the purchaser or its agent the latest prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) and any amendment to the prospectus (the **Prospectus Delivery Requirement**) does not apply to the Agent or other registered investment dealer acting on behalf of the Agent as a selling agent (each a **Selling Agent**) in connection with any at-the-market distribution, as defined in National Instrument 44-102 *Shelf Distributions* (**NI 44-102**), of common shares (**Common Shares**) of the Issuer in Canada pursuant to an equity distribution agreement (the **Equity Distribution Agreement**) to be entered into between the Issuer and the Agent (**ATM Distribution**); and

(b) that the requirements (collectively the **Prospectus Form Requirements**) to include in a prospectus supplement:

(i) a forward-looking issuer certificate of the Issuer in the form specified in section 2.1 of Appendix A to NI 44-102;

(ii) a forward-looking underwriter certificate in the form specified by section 2.2 of Appendix A to NI 44-102; and

(iii) a statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in Item 20 of Form 44-101F1 *Short Form Prospectus Distributions* (the **Statement of Purchaser's Rights**);

do not apply to a prospectus supplement of the Issuer to be filed in respect of an ATM Distribution.

The Decision Maker has also received a request from the Filers for a decision that the Application and this decision (together, the **Confidential Material**) be kept confidential and not be made public until the earliest of (i) the date on which the Filers enter into the Equity Distribution Agreement, (ii) the date on which any of the Filers advise the Decision Maker that there is no longer any need for the Confidential Material to remain confidential, and (iii) the date that is 90 days after the date of this decision (together, the **Confidentiality 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 the Application; and

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

Interpretation

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

Representations

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

The Issuer

1. The Issuer is a corporation incorporated under the *Canada Business Corporations Act*. The registered and head office of the Issuer is located in Toronto, Ontario.

2. The Issuer is a non-bank lender providing and investing in predominantly short term residential and commercial real estate financing, and achieves its investment objectives by pursuing a strategy of investing in selected niche real estate finance markets that are under-serviced by larger financial institutions. The Issuer is qualified as a mortgage investment corporation within the meaning of subsection 130.1(6) of the *Income Tax Act* (Canada).

3. The Issuer is a reporting issuer, or the equivalent, in each province of Canada and is in compliance with the requirements of securities legislation applicable therein.

The Agents

4. Canaccord Genuity Corp. is a corporation incorporated under the laws of Canada with its head office in Vancouver, British Columbia.

5. The Agent is registered as an investment dealer under the securities legislation of each of the provinces and territories of Canada, is a member of the Investment Industry Regulatory Organization of Canada, and is a participating organization of the TSX.

6. The Agent is not in default of any requirements under applicable securities legislation in any of the jurisdictions of Canada.

Proposed ATM Distribution

7. Subject to mutual agreement on terms and conditions, the Filers propose to enter into the Equity Distribution Agreement for the purpose of ATM Distributions involving the periodic sale of Common Shares by the Issuer through the Agent, as agent, under the shelf prospectus procedures prescribed by Part 9 of NI 44-102.

8. The Issuer has filed a short form base shelf prospectus dated July 17, 2017 (the **Shelf Prospectus**). Prior to making an ATM Distribution, the Issuer will have filed a prospectus supplement (the **Prospectus Supplement**) in each jurisdiction of Canada describing the terms of the ATM Distribution, including the terms of the Equity Distribution Agreement, and otherwise supplementing the disclosure in the Shelf Prospectus.

9. If the Equity Distribution Agreement is entered into, the Issuer will immediately:

   (a) issue and file a news release pursuant to section 3.2 of NI 44-102 announcing the Equity Distribution Agreement and indicating that the Shelf Prospectus and the Prospectus Supplement have been filed on SEDAR and specifying where and how purchasers under an ATM distribution may obtain copies; and

   (b) file the Equity Distribution Agreement on SEDAR.

10. The Issuer will conduct ATM Distributions through the Agent (as agent) directly or via a Selling Agent, through a marketplace as defined in National Instrument 21-101 *Marketplace Operation* in Canada upon which the Common Shares are listed, quoted or otherwise traded (each a **Canadian Marketplace**).

11. The Agent will act as the sole agent of the Issuer in connection with the sale of the Common Shares on a Canadian Marketplace pursuant to the Equity Distribution Agreement, directly by the Agent or through one or more Selling Agents, and will be paid an agency fee or commission by the Issuer in connection with such sales. The Agent will sign an agent's certificate in the form set out in paragraph 28 in the Prospectus Supplement filed on SEDAR.

12. The Agent will effect the ATM Distribution on any Canadian Marketplace, either itself or through a Selling Agent. If such sales are effected through a Selling Agent, the Selling Agent will be paid a seller's commission for effecting the trades on behalf of the Agent. A purchaser's rights and remedies under applicable securities legislation against the Agent, as agent of an ATM Distribution through a Canadian Marketplace, will not be affected by a decision to effect the sale directly or through a Selling Agent.

13. The Equity Distribution Agreement will provide that, at the time of each sale of Common Shares pursuant to an ATM Distribution, the Issuer will represent to the Agent that the Shelf Prospectus, as supplemented by the Prospectus Supplement, including the documents incorporated by reference in the Shelf Prospectus (which shall include any news release that has been designated and filed as Designated News Release as outlined below) and any subsequent amendment or supplement to the Shelf Prospectus or the Prospectus Supplement (together, the Prospectus), contains full, true and plain disclosure of all material facts relating to the Issuer and Common Shares being distributed. The Issuer would, therefore, be unable to proceed with sales pursuant to an ATM Distribution when it is in possession of undisclosed information that would constitute a material fact or a material change in respect of the Issuer or the Common Shares.

14. After the date of the Prospectus Supplement and before the termination of the ATM Distribution, in the event that the Issuer disseminates a news release in respect of previously undisclosed information that, in the Issuer's determination, constitutes a "material fact" (as such term is defined in the Legislation), the Issuer will identify such news release as a "designated news release" for the purposes of the Prospectus. This designation will be in writing on the face page of the version of such news release that the Issuer files on SEDAR (any such news release, a **Designated News Release**). The Prospectus Supplement shall provide that any such Designated News Release shall be deemed to be incorporated by reference in the Prospectus. A Designated News Release will not be utilized to update disclosure in the Prospectus by the Issuer in the event of a "material change" (as such term is defined in the Legislation).

15. If, after the Issuer delivers a sell notice to the Agent directing the Agent to sell Common Shares on the Issuer's behalf pursuant to the Equity Distribution Agreement (a **Sell Notice**), the sale of Common Shares specified in the Sell Notice, taking into consideration prior sales under all previous ATM Distributions, would constitute a material fact or material change, the Issuer will suspend sales under the Equity Distribution Agreement until either: (i) in the case of a material change, it has filed a material change report or amended the Prospectus, or, in the case of a material fact, it has filed a Designated News Release; or (ii) circumstances have changed such that the sales would no longer constitute a material fact or material change.

16. In determining whether the sale of the number of Common Shares specified in a Sell Notice would constitute a material fact or material change, the Issuer will take into account relevant factors including, without limitation: (i) the parameters

of the Sell Notice, including the number of Common Shares proposed to be sold and any price or timing restrictions that the Issuer may impose with respect to the particular ATM Distribution; (ii) the percentage of the outstanding Common Shares that the number of Common Shares proposed to be sold pursuant to the Sell Notice represents; (iii) sales under earlier Sell Notices; (iv) trading volume and volatility of Common Shares; (v) recent developments in the business, affairs or capital of the Issuer; and (vi) prevailing market conditions generally.

17. It is in the interest of the Issuer and the Agent to minimize the market impact of sales under an ATM Distribution. Therefore, the Agent will monitor closely the market's reaction to trades made on any Marketplace pursuant to the ATM Distribution in order to evaluate the likely market impact of future trades. The Agent has experience and expertise in managing sell orders to limit downward pressure on trading prices. If the Agent has concerns as to whether a particular sell order placed by the Issuer may have a significant effect on the market price of the Common Shares, the Agent will recommend against effecting the trade at that time.

18. The aggregate number of Common Shares sold on any trading day pursuant to an ATM Distribution will not exceed 25% of the aggregate trading volume of the Common Shares traded on Marketplaces in Canada on that day.

Disclosure of Common Shares Sold in ATM Distribution

19. Within seven calendar days after the end of each calendar month during which the Issuer conducts an ATM Distribution, the Issuer will disclose in a report filed on SEDAR the number and average selling price of the Common Shares distributed through a Canadian Marketplace under the ATM Distribution, and the commission and gross and net proceeds for such sales; furthermore, the Issuer will disclose the number and average price of Common Shares sold pursuant to an ATM Distribution under the Prospectus, as well as gross proceeds, commissions and net proceeds, in its annual and interim financial statements and management discussion and analysis filed on SEDAR.

Prospectus Delivery Requirement

20. Pursuant to the Prospectus Delivery Requirement, a dealer effecting a trade of securities offered under a prospectus is required to deliver a copy of the prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) to the purchaser within prescribed time limits.

21. Delivery of a prospectus is not practicable in the circumstances of an ATM Distribution, because neither the Agent nor a Selling Agent effecting the trade will know the identity of the purchasers.

22. The Prospectus (together with all documents incorporated by reference therein) will be filed and readily available electronically via SEDAR to all purchasers under ATM Distributions. As stated in paragraph 9 above, the Issuer will issue a news release that specifies where and how copies of the Shelf Prospectus and the Prospectus Supplement can be obtained.

23. The liability of an issuer or an underwriter (or others) for a misrepresentation in a prospectus pursuant to the civil liability provisions of the Legislation will not be affected by the grant of an exemption from the Prospectus Delivery Requirement, because purchasers of securities offered by a prospectus during the period of distribution have a right of action for damages or rescission if there is a misrepresentation in the prospectus at the time of purchase, without regard to whether or not the purchaser relied on the misrepresentation or in fact received a copy of the prospectus.

Withdrawal Right and Right of Action for Non-Delivery

24. Pursuant to the Legislation an agreement to purchase a security in respect of a distribution to which the prospectus requirement applies is not binding on the purchaser if a dealer receives, not later than midnight on the second day (exclusive of Saturdays, Sundays and holidays) after receipt by the purchaser of the latest prospectus or any amendment to the prospectus, a notice in writing that the purchaser does not intend to be bound by the agreement of purchase (the **Withdrawal Right**).

25. Pursuant to the Legislation a purchaser of a security to whom a prospectus was required, but not in fact, sent or delivered in compliance with the Prospectus Delivery Requirement has a right of action for rescission or damages against the dealer who did not comply with the Prospectus Delivery Requirement (the **Right of Action for Non-Delivery**).

26. Neither the Withdrawal Right nor the Right of Action for Non-Delivery is workable in the context of an ATM Distribution because of the impracticability of delivering the Prospectus to a purchaser of Common Shares thereunder.

Prospectus Form Requirements

27. To reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement will include the following issuer certificate:

> *The short form prospectus, together with the documents incorporated in the prospectus by reference, as supplemented by the foregoing, as of the date of a particular distribution of securities under the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and this supplement as required by the securities legislation of each of the provinces of Canada.*

28. Also to reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement will include the following underwriter certificate:

> *To the best of our knowledge, information and belief, the short form prospectus, together with the documents incorporated in the prospectus by reference, as supplemented by the foregoing, as of the date of a particular distribution of securities under the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by the prospectus and this supplement as required by the securities legislation of each of the provinces of Canada.*

29. A different statement of purchasers' rights than that required by the Legislation is necessary in order to allow the Prospectus to accurately reflect the relief granted from the Prospectus Delivery Requirement. Accordingly, the Prospectus Supplement will state the following, with the date reference completed:

> *Securities legislation in certain of the provinces of Canada provides purchasers with the right to withdraw from an agreement to purchase securities and with remedies for rescission or, in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment are not delivered to the purchaser, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. However, purchasers of Common Shares under an at-the-market distribution by the Issuer will not have the right to withdraw from an agreement to purchase the Common Shares and will not have remedies of rescission or, in some jurisdictions, revision of the price, or damages for non-delivery of the prospectus, because the prospectus, prospectus supplements relating to the Common Shares purchased by the purchaser and any amendment relating to Common Shares purchased by such purchaser will not be delivered as permitted under a decision dated 2017 and granted pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.*
>
> *Securities legislation in certain of the provinces of Canada also provides purchasers with remedies for rescission or, in some jurisdictions, revision of the price or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contains a misrepresentation, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. Any remedies under securities legislation that a purchaser of Common Shares under an at-the-market distribution by the Issuer may have against the Issuer or the Agents for rescission or, in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contain a misrepresentation remain unaffected by the non-delivery and the decision referred to above.*
>
> *Purchasers should refer to any applicable provisions of securities legislation and the decision referred to above for the particulars of these rights or consult with a legal adviser.*

30. The Prospectus Supplement will disclose that, in respect of ATM Distributions under the Prospectus Supplement, the statement prescribed in paragraph 29 above supersedes the statement of purchaser's rights in the Shelf Prospectus.

Decision

The Decision Maker is satisfied that this decision satisfies the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that:

(a) the Issuer complies with the disclosure requirements set out in paragraph 19 and paragraphs 27 through 30, above; and

(b) the Issuer and Agent respectively comply with the representations made in paragraphs 9 through 18, above.

This decision will terminate 25 months from July 17, 2017.

The further decision of the Decision Maker is that Confidentiality Relief is granted.

As to the Exemption Sought from the Prospectus Delivery Requirement and the Confidentiality Relief:

"Deborah Leckman"
Commissioner
Ontario Securities Commission

"Philip Anisman"
Commissioner
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Delivery Requirement, the Prospectus Form Requirements and the Confidentiality Relief:

"Jo-Anne Matear"
Manager, Corporate Finance
Ontario Securities Commission

2.1.8 Mackenzie Financial Corporation and LBC Financial Services Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the requirement in s.3.2.01 of NI 81-101 to deliver a fund facts document to investors who purchase mutual fund securities of a preferred pricing series pursuant to switches from a regular retail series upon meeting certain eligibility requirements based on the amount of the investor's investments – Preferred pricing series securities are identical to regular retail series securities except that the preferred pricing series offer management fee reductions based on the investor's investment amounts in eligible accounts which result in lower combined management and administration fees – Investment fund manager initiating switches on behalf of investors when their investments satisfy eligibility requirements of the preferred pricing series – Switches between series of a fund are distributions of securities which trigger the requirement to deliver a fund facts document – Relief granted from requirement to deliver a fund facts document to investors for purchases of preferred pricing series securities made pursuant to such switches subject to compliance with certain notification and prospectus and fund facts disclosure requirements – National Instrument 81-101 Mutual Fund Prospectus Disclosure.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 3.2.01, 6.1.

November 20, 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 Filer)

AND

IN THE MATTER OF
LBC FINANCIAL SERVICES INC.
(the Principal Distributor)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption from the requirement in the Legislation for a dealer to deliver or send the most recently filed fund facts document (**Fund Facts**) in the manner as required under the Legislation (the **Pre-Sale Fund Facts Delivery Requirement**) in respect of the purchases of Preferred Pricing Series (as defined below) securities of the Funds (as defined below) that are made pursuant to Lower Fee Switches (as defined below) (the **Exemption Sought**).

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

(a) the Ontario Securities Commission 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 British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick,

Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the **Other Jurisdictions**, together with the Jurisdiction, 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:

The Filer

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

2. The Filer is registered as an investment fund manager, portfolio manager, exempt market dealer and commodity trading manager in the Jurisdiction. The Filer is also registered as: (a) a portfolio manager and exempt-market dealer in the Other Jurisdictions and each of the territories of Canada, and (b) as an investment fund manager in Newfoundland and Labrador and Québec.

3. The Filer is the manager of those existing mutual funds (the **Existing Funds**) offered under simplified prospectus dated November 28, 2016, as amended on December 21, 2016, and March 10, 2017. The Filer may offer other mutual funds under simplified prospectus in the future (those funds, together with the Existing Funds, are referred to as the **Funds** and, individually, as a **Fund**).

4. The head office of the Filer is located in Toronto, Ontario.

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

The Principal Distributor

6. Certain series of the Funds (the **Laurentian Series**) are, or will be, available for purchase only through LBC Financial Services Inc., the principal distributor for the Laurentian Series securities (the **Principal Distributor**).

7. The Principal Distributor is a member of the Mutual Fund Dealers Association of Canada and is registered in the category of mutual fund dealer in each of the Jurisdictions.

8. The Principal Distributor is not in default of securities legislation in any of the Jurisdictions.

The Funds

9. Each Fund is, or will be, an open-end mutual fund trust created under the laws of the Province of Ontario or an open-end mutual fund that is a class of shares of a mutual fund corporation.

10. Each Fund is, or will be, a reporting issuer under the laws of all of the provinces and territories of Canada and subject to National Instrument 81-102 *Investment Funds* (**NI 81-102**). The Laurentian Series securities are, or will be, qualified for distribution pursuant to a simplified prospectus, Fund Facts and annual information form that have been, or will be, prepared and filed in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

11. Each Fund currently offers up to four Laurentian Series: Series LB, LM, LP and LX.

12. Certain Funds intend to also offer either Series LW, or Series LW and LW6, which will be qualified for distribution by way of a simplified prospectus to be dated on or around November 23, 2017. The Filer may offer additional series under the Laurentian Prospectus in the future.

13. Series LW, LW6 and any future applicable preferred pricing series securities that are Laurentian Series securities (the **Laurentian Preferred Pricing Series**) generally have or will have lower combined management and administration fees than Series LB, LM and LX and any future applicable retail series securities that are Laurentian Series securities (the **Laurentian Retail Series**) and are, or will be, only available to investors who have invested at least $100,000 in one Laurentian Series of a Fund or $250,000 across a group of eligible investments (**Eligibility Criteria**).

14. The Existing Funds are not in default of securities legislation in any of the Jurisdictions.

Lower Fee Switches

15. The Filer is starting a program (the **Preferred Pricing Program**) effective December 8, 2017 (the **Implementation Date**) whereby investors holding Laurentian Retail Series securities will automatically be switched into the corresponding Laurentian Preferred Pricing Series securities if they meet the Eligibility Criteria and would benefit from lower fees. The Filer will automatically switch these Laurentian Retail Series holders into the Laurentian Preferred Pricing Series (the **Lower Fee Switches**) without the Principal Distributor or investor having to initiate the trade. If an investor holding Laurentian Preferred Pricing Series securities ceases to meet the Eligibility Criteria, the Filer may switch the Laurentian Preferred Pricing Series back into the applicable Laurentian Retail Series securities without the Principal Distributor or investor initiating the trade (the **Higher Fee Switches**).

16. The Laurentian Preferred Pricing Series will, relative to the applicable Laurentian Retail Series, provide investors with progressively lower combined management and administration fees. The applicable management fee reductions will be based on tiered discount rates that vary according to certain investor asset thresholds. Those management fee reductions will be determined in respect of each Fund, where Laurentian Preferred Pricing Series securities are held within eligible accounts, as follows:

    (a) the Filer will calculate the "high water mark" value of the Laurentian Series securities and any other Fund securities held in eligible accounts (the **Eligible Investments**);

    (b) the Filer will calculate the percentage of the value of the Eligible Investments within each of the tiers used in the Preferred Pricing Program;

    (c) for each tier in which Eligible Investments are held, the Filer will multiply the percentage of the daily value of Eligible Investments within that tier by the daily equivalent of the management fee reduction rate that is applicable to that tier of the applicable Laurentian Preferred Pricing Series; and

    (d) the management fee rate reduction equals the sum of each amount calculated in accordance with paragraph (c) above.

    Management fee reductions will only be applied to investments in the Laurentian Preferred Pricing Series and will not be applied to other Eligible Investments.

17. Relevant investor accounts will be monitored by the Filer, who will apply management fee reductions using the discount rates of the applicable tier or tiers. The management fee reductions will be payable on a quarterly basis in the form of additional securities of the Funds.

18. An investor will be eligible for Lower Fee Switches when the investor purchases additional Laurentian Series securities or when positive market movement moves the investor into Laurentian Preferred Pricing Series eligibility. If an investor meets the Eligibility Criteria through a purchase or a switch transaction they will be automatically switched into the applicable Laurentian Preferred Pricing Series the following business day. In addition, the Filer will automatically switch Laurentian Retail Series securities into the applicable Laurentian Preferred Pricing Series securities on or about the second Friday of every month if positive market movement has allowed them to meet the Eligibility Criteria.

19. The Higher Fee Switches may occur because of redemptions that decrease the amount of total investments with the Filer for purposes of calculating the investor's eligibility for Laurentian Preferred Pricing Series securities. However, in no circumstances will market value declines lead to Higher Fee Switches.

20. Once an account has qualified for the Laurentian Preferred Pricing Series, the account will continue to enjoy the benefit of lower fees associated with the applicable Laurentian Preferred Pricing Series, even if Fund performance reduces the account value below the Eligibility Criteria.

21. Investors may access Laurentian Preferred Pricing Series securities by: (a) initially investing in Laurentian Preferred Pricing Series securities if they meet the Eligibility Criteria; or (b) initially investing in Laurentian Retail Series securities and then, upon meeting the Eligibility Criteria, having those Laurentian Retail Series securities switched into Laurentian Preferred Pricing Series securities by way of a Lower Fee Switch.

22. Investors may access Laurentian Retail Series securities by: (a) initially investing in Laurentian Retail Series securities; or (b) initially investing in Laurentian Preferred Pricing Series securities and then, upon no longer meeting the Eligibility Criteria for the Laurentian Preferred Pricing Series securities, having those Laurentian Preferred Pricing Series securities switched into Laurentian Retail Series securities by way of a Higher Fee Switch.

23. The trailing commissions for the Laurentian Preferred Pricing Series and Laurentian Retail Series securities are, or will be, identical.

24. Further to each Lower Fee Switch, an investor's account would continue to hold Laurentian Series securities in the same Fund(s) as before the Lower Fee Switch, with the only material differences to the investor being that the combined management and administration fees charged for the Laurentian Preferred Pricing Series securities would be lower than those charged for Laurentian Retail Series securities.

25. Further to each Higher Fee Switch, an investor's account would continue to hold Laurentian Series securities in the same Fund(s) as before the Higher Fee Switch, with the only material differences to the investor being that the combined management and administration fees charged for the Laurentian Retail Series securities would be higher than those charged for Laurentian Preferred Pricing Series securities.

26. There are no sales charges, switch fees or other fees payable by the investor upon a Lower Fee Switch or a Higher Fee Switch.

27. Implementation of the Lower Fee Switches will have no adverse tax consequences on investors under current Canadian tax legislation.

28. Each Lower Fee Switch will entail a redemption of the Laurentian Retail Series securities, immediately followed by a purchase of the corresponding Laurentian Preferred Pricing Series securities and will be a "distribution" under the *Securities Act* (Ontario), which triggers the Pre-Sale Fund Facts Delivery Requirement.

29. Pursuant to the Pre-Sale Fund Facts Delivery Requirement, a dealer is required to deliver the most recently filed Fund Facts of a series of a fund to an investor before the dealer accepts an instruction from the investor for the purchase of securities of that series of the fund.

30. While the Filer will initiate each trade done as part of a Lower Fee Switch, the Filer does not propose to deliver the Fund Facts to investors in connection with the purchase of Securities made pursuant to a Lower Fee Switch for the following reasons:

    (a) at no time will an account that qualifies for Laurentian Preferred Pricing Series securities pay combined management and administration fees at a rate higher than the rate of the combined management and administration fees of the Laurentian Retail Series securities for which it initially subscribed; and

    (b) since Laurentian Retail Series securityholders would have received the Fund Facts disclosing the higher level of fees which applied to the Laurentian Retail Series for which they initially subscribed, the investor would derive little benefit from receiving a further Fund Facts document for each Lower Fee Switch.

31. The Principal Distributor will be required to deliver the Laurentian Retail Series Fund Facts to investors in connection with the purchase of Laurentian Retail Series securities made pursuant to a Higher Fee Switch, as required by the Pre-Sale Fund Facts Delivery Requirement.

32. The Filer will deliver or will arrange for the delivery of trade confirmations to investors in connection with each trade done further to a Lower Fee Switch. Furthermore, details of the changes in series of Laurentian Series securities held will be reflected in the account statements sent to investors for the quarter in which the change occurred.

33. The Filer will disclose the eligibility requirements and the management and administration fees applicable to the Laurentian Retail Series and the Laurentian Preferred Pricing Series in the simplified prospectus.

34. In the Fund Facts of the Laurentian Retail Series and the Laurentian Preferred Pricing Series of the Funds, as applicable, the Filer will disclose:

    (a) under the heading "How much does it cost?", a summary of the Preferred Pricing Program, consisting of:

        (i) a statement explaining that the Preferred Pricing Program offers combined management and administration fee decreases;

        (ii) in the case of the Laurentian Retail Series only, a statement explaining the scenarios in which the Lower Fee Switches will be made;

        (iii) a statement that Higher Fee Switches may be made due to the investor no longer meeting the Eligibility Criteria;

(iv) a cross-reference to the fee decrease table under the sub-heading “Fund expenses”;

(v) a cross-reference to specific sections of the simplified prospectus of the Funds for more details about the Preferred Pricing Program; and

(vi) a statement disclosing that investors should speak to their representative for more details about the Preferred Pricing Program;

(b) at the end of the disclosure under the sub-heading “Fund expenses”:

(i) a table that discloses:

A. the name of, and qualifying investment amounts associated with, each of the tiers used in determining management fee reductions in the applicable Laurentian Preferred Pricing Series;

B. the combined management and administration fee decrease of each fee tier from the combined management and administration fee of the applicable Laurentian Retail Series, shown in percentage terms; and

(ii) an introduction to the table stating that the table sets out the combined management and administration fee decrease of each of the fee tiers from the combined management and administration fee of the applicable Laurentian Retail Series

(collectively, the **Preferred Pricing Program Disclosure**).

35. The Filer will communicate extensively with the Principal Distributor about the Lower Fee Switches so that the Principal Distributor will be equipped to appropriately notify existing Laurentian Retail Series investors of the changes applying to their Laurentian Retail Series investments and appropriately advise new Laurentian Retail Series investors about the Lower Fee Switches.

36. In the absence of the Exemption Sought, the Filer may not carry out the Lower Fee Switches without compliance with the Pre-Sale Fund Facts Delivery Requirement.

Decision

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

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

1. For investors invested in Laurentian Retail Series prior to the Implementation Date of the Lower Fee Switches, the Filer will liaise with the Principal Distributor to devise a notification plan for such investors regarding the Lower Fee Switches that addresses the following:

(a) that their investment may be switched to a Laurentian Preferred Pricing Series with lower fees upon meeting the applicable Eligibility Criteria;

(b) that other than a difference in fees, there may be no other material difference between the Laurentian Retail Series and the Laurentian Preferred Pricing Series;

(c) that if they cease to meet the Eligibility Criteria for Laurentian Preferred Pricing Series, their investment may be switched into a series with higher management and administration fees which will not exceed Laurentian Retail Series fees; and

(d) that they will not receive the Fund Facts when they purchase Securities further to a Lower Fee Switch, but that

(i) they may request the most recently filed Fund Facts for the relevant series by calling a specified toll-free number or by sending a request via email to a specified address;

(ii) the most recently filed Fund Facts will be sent or delivered to them at no cost;

(iii) the most recently filed Fund Facts may be found either on the SEDAR website or on the Filer's website; and

(iv) they will not have the right to withdraw from an agreement of purchase and sale (a **Withdrawal Right**) in respect of a purchase of series securities made pursuant to a Lower Fee Switch, but they will have the right of action for damages or rescission in the event any Fund Facts or document incorporated by reference into a simplified prospectus for the relevant series contains a misrepresentation, whether or not they request the Fund Facts.

2. the Filer will incorporate disclosure in the simplified prospectus for the Laurentian Series that sets out the following:

(a) the eligibility requirements for both the Laurentian Retail Series and the Laurentian Preferred Pricing Series;

(b) the management and administration fees applicable to investments in both the Laurentian Retail Series and the Laurentian Preferred Pricing Series; and

(c) in the event investors cease to meet the Eligibility Criteria of a specified Laurentian Preferred Pricing Series, that their investment may be switched into a series with higher management and administration fees which will not exceed the applicable Laurentian Retail Series fees.

3. each Fund Facts for each Laurentian Series will contain:

(a) the Preferred Pricing Program Disclosure; and

(b) a cross-reference to the more detailed disclosure in the simplified prospectus.

4. for Laurentian Retail Series investors, the Filer sends these investors an annual reminder notice advising that they will not receive the Fund Facts when they purchase Laurentian Preferred Pricing Series securities further to a Lower Fee Switch, but that:

(a) they may request the most recently filed Fund Facts for the relevant series by calling a specified toll-free number or by sending a request via email to a specified address;

(b) the most recently filed Fund Facts will be sent or delivered to them at no cost;

(c) the most recently filed Fund Facts may be found either on the SEDAR website or on the Filer's website; and

(d) they will not have a Withdrawal Right in respect of a purchase of series securities made pursuant to a Lower Fee Switch, but they will have a right of action for damages or rescission in the event any Fund Facts or document incorporated by reference into a simplified prospectus for the relevant series contains a misrepresentation, whether or not they request the Fund Facts.

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

2.1.9 Superior Plus Corp. and Canaccord Genuity Corp.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for exemptive relief to permit issuer and underwriter, acting as agent for the issuer, to enter into an equity distribution agreement to make "at the market" (ATM) distributions of common shares over the facilities of the TSX or other Canadian marketplace – ATM distributions to be made pursuant to shelf prospectus procedures in Part 9 of NI 44-102 Shelf Distributions – issuer will issue a press release and file agreements on SEDAR – application for relief from prospectus delivery requirement – delivery of prospectus not practicable in circumstances of an ATM distribution – relief from prospectus delivery requirement has effect of removing two-day right of withdrawal and remedies of rescission or damages for non-delivery of the prospectus – application for relief from certain prospectus form requirements – relief granted to permit modified forward-looking certificate language – relief granted on terms and conditions set out in decision document – decision will terminate 25 months after the issuance of a receipt for the shelf prospectus. Decision and application also held in confidence by decision makers until the earlier of the entering into of an equity distribution agreement, waiver of confidentiality or 90 days from the date of the decision.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71, 147

Applicable Ontario Rules

National Instrument 44-101 Short Form Prospectus Distributions, s.18.1 and Item 20 of Form 44-101F1.
National Instrument 44-102 Shelf Distributions, ss. 6.3 and 6.7, Part 9 and ss. 2.1 and 2.2 of Appendix A.
National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

October 3, 2017

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

AND

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

AND

IN THE MATTER OF
SUPERIOR PLUS CORP.
(the Issuer)

AND

CANACCORD GENUITY CORP.
(the Agent and together with the Issuer, the Filers)

DECISION

Background

The Ontario Securities Commission (the **Decision Maker**) has received an application (the **Application**) from the Filers for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for the following relief (the **Exemption Sought**):

(a) that the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement applies, deliver to the purchaser or its agent the latest prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) and any amendment to the prospectus (the **Prospectus Delivery Requirement**) does not apply to the Agent or other registered investment dealer acting on behalf of the Agent as a selling agent (each a **Selling Agent**) in connection with any at-the-market distribution, as defined in National Instrument 44-102

Shelf Distributions (**NI 44-102**), of common shares (**Common Shares**) of the Issuer in Canada pursuant to an equity distribution agreement (the **Equity Distribution Agreement**) to be entered into between the Issuer and the Agent (**ATM Distribution**); and

(b) that the requirements (collectively the **Prospectus Form Requirements**) to include in a prospectus supplement:

i. a forward-looking issuer certificate of the Issuer in the form specified in section 2.1 of Appendix A to NI 44-102;

ii. a forward-looking underwriter certificate in the form specified by section 2.2 of Appendix A to NI 44-102; and

iii. a statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in Item 20 of Form 44-101F1 *Short Form Prospectus Distributions* (the **Statement of Purchaser's Rights**);

do not apply to a prospectus supplement of the Issuer to be filed in respect of an ATM Distribution.

The Decision Maker has also received a request from the Filers for a decision that the Application and this decision (together, the **Confidential Material**) be kept confidential and not be made public until the earliest of (i) the date on which the Filers enter into the Equity Distribution Agreement, (ii) the date on which any of the Filers advise the Decision Maker that there is no longer any need for the Confidential Material to remain confidential, and (iii) the date that is 90 days after the date of this decision (together, the **Confidentiality 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 the Application; and

(b) the Filers have provided notice that section 4.7(1)(c) 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 the Yukon Territory.

Interpretation

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

Representations

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

The Issuer

1. The Issuer is a corporation incorporated under the *Canada Business Corporations Act*. The registered and head office of the Issuer is Suite 401, 200 Wellington Street West, Toronto, Ontario, M5V 3C7.

2. The Issuer consists of two primary operating businesses: Energy Distribution which includes the distribution of propane and distillates, and supply portfolio management; and Specialty Chemicals which includes the manufacture and sale of specialty chemicals.

3. The Issuer is a reporting issuer, or the equivalent, in each province and territory of Canada and is not in default of securities legislation in any jurisdiction of Canada.

The Agents

4. Canaccord Genuity Corp. is a corporation incorporated under the laws of Canada with its head office in Vancouver, British Columbia.

5. The Agent is registered as an investment dealer under the securities legislation of each of the provinces and territories of Canada, is a member of the Investment Industry Regulatory Organization of Canada, and is a participating organization of the Toronto Stock Exchange.

6. The Agent is not in default of any requirements under applicable securities legislation in any of the jurisdictions of Canada.

Proposed ATM Distribution

7. Subject to mutual agreement on terms and conditions, the Filers propose to enter into the Equity Distribution Agreement for the purpose of ATM Distributions involving the periodic sale of Common Shares by the Issuer through the Agent, as agent, under the shelf prospectus procedures prescribed by Part 9 of NI 44-102.

8. The Issuer has filed a short form base shelf prospectus dated November 9, 2016 (the **Shelf Prospectus**). Prior to making an ATM Distribution, the Issuer will have filed a prospectus supplement (the **Prospectus Supplement**) in each jurisdiction of Canada describing the terms of the ATM Distribution, including the terms of the Equity Distribution Agreement, and otherwise supplementing the disclosure in the Shelf Prospectus.

9. If the Equity Distribution Agreement is entered into, the Issuer will immediately:

   (a) issue and file a news release pursuant to section 3.2 of NI 44-102 announcing the Equity Distribution Agreement and indicating that the Shelf Prospectus and the Prospectus Supplement have been filed on SEDAR and specifying where and how purchasers under an ATM Distribution may obtain copies; and

   (b) file the Equity Distribution Agreement on SEDAR.

10. The Issuer will conduct ATM Distributions through the Agent (as agent) directly or through a Selling Agent, through a marketplace as defined in National Instrument 21-101 *Marketplace Operation* in Canada upon which the Common Shares are listed, quoted or otherwise traded (each a **Canadian Marketplace**).

11. The Agent will act as the sole agent of the Issuer in connection with the sale of the Common Shares on any Canadian Marketplace pursuant to the Equity Distribution Agreement, directly by the Agent or through one or more Selling Agents, and will be paid an agency fee or commission by the Issuer in connection with such sales. The Agent will sign an agent's certificate in the form set out in paragraph 28 in the Prospectus Supplement filed on SEDAR.

12. The Agent will effect the ATM Distribution on any Canadian Marketplace, either itself or through a Selling Agent. If such sales are effected through a Selling Agent, the Selling Agent will be paid a seller's commission for effecting the trades on behalf of the Agent. A purchaser's rights and remedies under applicable securities legislation against the Agent, as agent of an ATM Distribution through a Canadian Marketplace, will not be affected by a decision to effect the sale directly or through a Selling Agent.

13. The Equity Distribution Agreement will provide that, at the time of each sale of Common Shares pursuant to an ATM Distribution, the Issuer will represent to the Agent that the Shelf Prospectus, as supplemented by the Prospectus Supplement, including the documents incorporated by reference in the Shelf Prospectus (which shall include any news release that has been designated and filed as Designated News Release as outlined below) and any subsequent amendment or supplement to the Shelf Prospectus or the Prospectus Supplement (together, the **Prospectus**), contains full, true and plain disclosure of all material facts relating to the Issuer and Common Shares being distributed. The Issuer would, therefore, be unable to proceed with sales pursuant to an ATM Distribution when it is in possession of undisclosed information that would constitute a material fact or a material change in respect of the Issuer or the Common Shares.

14. After the date of the Prospectus Supplement and before the termination of the ATM Distribution, in the event that the Issuer disseminates a news release in respect of previously undisclosed information that, in the Issuer's determination, constitutes a "material fact" (as such term is defined in the Legislation), the Issuer will identify such news release as a "designated news release" for the purposes of the Prospectus. This designation will be in writing on the face page of the version of such news release that the Issuer files on SEDAR (any such news release, a **Designated News Release**). The Prospectus Supplement shall provide that any such Designated News Release shall be deemed to be incorporated by reference in the Prospectus. A Designated News Release will not be utilized to update disclosure in the Prospectus by the Issuer in the event of a "material change" (as such term is defined in the Legislation).

15. If, after the Issuer delivers a sell notice to the Agent directing the Agent to sell Common Shares on the Issuer's behalf pursuant to the Equity Distribution Agreement (a **Sell Notice**), the sale of Common Shares specified in the Sell Notice, taking into consideration prior sales under all previous ATM Distributions, would constitute a material fact or material change, the Issuer will suspend sales under the Equity Distribution Agreement until either: (i) in the case of a material change, it has filed a material change report or amended the Prospectus, or, in the case of a material fact, it has filed a Designated News Release; or (ii) circumstances have changed such that the sales would no longer constitute a material fact or material change.

16. In determining whether the sale of the number of Common Shares specified in a Sell Notice would constitute a material fact or material change, the Issuer will take into account relevant factors including, without limitation: (i) the parameters of the Sell Notice, including the number of Common Shares proposed to be sold and any price or timing restrictions that the Issuer may impose with respect to the particular ATM Distribution; (ii) the percentage of the outstanding Common Shares that the number of Common Shares proposed to be sold pursuant to the Sell Notice represents; (iii) sales under earlier Sell Notices; (iv) trading volume and volatility of Common Shares; (v) recent developments in the business, affairs or capital of the Issuer; and (vi) prevailing market conditions generally.

17. It is in the interest of the Issuer and the Agent to minimize the market impact of sales under an ATM Distribution. Therefore, the Agent will monitor closely the market's reaction to trades made on any Canadian Marketplace pursuant to the ATM Distribution in order to evaluate the likely market impact of future trades. The Agent has experience and expertise in managing sell orders to limit downward pressure on trading prices. If the Agent has concerns as to whether a particular sell order placed by the Issuer may have a significant effect on the market price of the Common Shares, the Agent will recommend against effecting the trade at that time.

18. The aggregate number of Common Shares sold on any trading day pursuant to an ATM Distribution will not exceed 25% of the aggregate trading volume of Common Shares traded on Canadian Marketplaces on that day.

Disclosure of Common Shares Sold in ATM Distribution

19. The Issuer will disclose the number and average price of Common Shares sold pursuant to an ATM Distribution under the Prospectus, as well as gross proceeds, commission and net proceeds, in its annual and interim financial statements and management discussion and analysis filed on SEDAR.

Prospectus Delivery Requirement

20. Pursuant to the Prospectus Delivery Requirement, a dealer effecting a trade of securities offered under a prospectus is required to deliver a copy of the prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) to the purchaser within prescribed time limits.

21. Delivery of a prospectus is not practicable in the circumstances of an ATM Distribution, because neither the Agent nor a Selling Agent effecting the trade will know the identity of the purchasers.

22. The Prospectus (together with all documents incorporated by reference therein) will be filed and readily available electronically via SEDAR to all purchasers under ATM Distributions. As stated in paragraph 9 above, the Issuer will issue a news release that specifies where and how copies of the Shelf Prospectus and the Prospectus Supplement can be obtained.

23. The liability of an issuer or an underwriter (or others) for a misrepresentation in a prospectus pursuant to the civil liability provisions of the Legislation will not be affected by the grant of an exemption from the Prospectus Delivery Requirement, because purchasers of securities offered by a prospectus during the period of distribution have a right of action for damages or rescission if there is a misrepresentation in the prospectus at the time of purchase, without regard to whether or not the purchaser relied on the misrepresentation or in fact received a copy of the prospectus.

Withdrawal Right and Right of Action for Non-Delivery

24. Pursuant to the Legislation an agreement to purchase a security in respect of a distribution to which the prospectus requirement applies is not binding on the purchaser if a dealer receives, not later than midnight on the second day (exclusive of Saturdays, Sundays and holidays) after receipt by the purchaser of the latest prospectus or any amendment to the prospectus, a notice in writing that the purchaser does not intend to be bound by the agreement of purchase (the **Withdrawal Right**).

25. Pursuant to the Legislation a purchaser of a security to whom a prospectus was required, but not in fact, sent or delivered in compliance with the Prospectus Delivery Requirement has a right of action for rescission or damages against the dealer who did not comply with the Prospectus Delivery Requirement (the **Right of Action for Non-Delivery**).

26. Neither the Withdrawal Right nor the Right of Action for Non-Delivery is workable in the context of an ATM Distribution because of the impracticability of delivering the Prospectus to a purchaser of Common Shares thereunder.

Prospectus Form Requirements

27. To reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement will include the following issuer certificate:

> *The short form prospectus, together with the documents incorporated in the prospectus by reference, as supplemented by the foregoing, as of the date of a particular distribution of securities under the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and this supplement as required by the securities legislation of each of the provinces and territories of Canada.*

28. Also to reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement will include the following underwriter certificate:

> *To the best of our knowledge, information and belief, the short form prospectus, together with the documents incorporated in the prospectus by reference, as supplemented by the foregoing, as of the date of a particular distribution of securities under the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by the prospectus and this supplement as required by the securities legislation of each of the provinces and territories of Canada.*

29. A different statement of purchasers' rights than that required by the Legislation is necessary in order to allow the Prospectus to accurately reflect the relief granted from the Prospectus Delivery Requirement. Accordingly, the Prospectus Supplement will state the following, with the date reference completed:

> *Securities legislation in certain of the provinces and territories of Canada provides purchasers with the right to withdraw from an agreement to purchase securities and with remedies for rescission or, in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment are not delivered to the purchaser, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. However, purchasers of Common Shares under an at-the-market distribution by the Issuer will not have the right to withdraw from an agreement to purchase the Common Shares and will not have remedies of rescission or, in some jurisdictions, revision of the price, or damages for non-delivery of the prospectus, because the prospectus, prospectus supplements relating to the Common Shares purchased by the purchaser and any amendment relating to Common Shares purchased by such purchaser will not be delivered as permitted under a decision dated •, 2017 and granted pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.*
>
> *Securities legislation in certain of the provinces and territories of Canada also provides purchasers with remedies for rescission or, in some jurisdictions, revision of the price or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contains a misrepresentation, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. Any remedies under securities legislation that a purchaser of Common Shares under an at-the-market distribution by the Issuer may have against the Issuer or the Agents for rescission or, in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contain a misrepresentation remain unaffected by the non-delivery and the decision referred to above.*
>
> *Purchasers should refer to any applicable provisions of securities legislation and the decision referred to above for the particulars of these rights or consult with a legal adviser.*

30. The Prospectus Supplement will disclose that, in respect of ATM Distributions under the Prospectus Supplement, the statement prescribed in paragraph 29 above supersedes the statement of purchaser's rights in the Shelf Prospectus.

Decision

The Decision Maker is satisfied that this decision satisfies the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that:

(a) during a 60-day period ending not earlier than 10 days prior to the commencement of an ATM Distribution, the Common Shares have traded, in total, on one or more Canadian Marketplaces, as reported on a consolidated market display: (i) an average of at least 100 times per trading day, and (ii) with an average trading value of at least $1,000,000 per trading day;

(b) The Issuer shall not, during the period that the final receipt for the Base Shelf Prospectus is effective, distribute by way of one or more ATM Distributions a total market value of Common Shares that exceeds 10% of the aggregate market value of Common Shares, such aggregate market value calculated in accordance with section 9.2 of NI 44-102 and as at the last trading day of the month before the month in which the first ATM Distribution is made;

(c) the Issuer complies with the disclosure requirements set out in paragraph 19 and paragraphs 27 through 30, above; and

(d) the Issuer and Agent respectively comply with the representations made in paragraphs 9 through 18, above.

This decision will terminate 25 months from November 9, 2016.

The further decision of the Decision Makers is that the Confidentiality Relief is granted.

As to the Exemption Sought from the Prospectus Delivery Requirement and the Confidentiality Relief:

"Janet Leiper"
Commissioner
Ontario Securities Commission

"Anne-Marie Ryan"
Commissioner
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Delivery Requirement, the Prospectus Form Requirements and the Confidentiality Relief:

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

2.2 Orders

2.2.1 Richmont Mines Inc.

Headnote

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

Applicable Legislative Provisions

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

[TRANSLATION]

Decision N°: 2017-IC-0024

File N°: 2044

December 20, 2017

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

AND

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

AND

IN THE MATTER OF
RICHMONT MINES INC.
(the Filer)

ORDER

Background

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

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

(a) the Autorité des marchés financiers is the principal regulator for this application,

(b) the Filer has provided notice that sub-section 4C.5(1) of *Regulation 11-102 respecting Passport System* (Regulation 11-102) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, New Scotia, Prince Edward Island, Newfoundland and Labrador, and

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, in Regulation 11-102 and, in *Regulation 14-501Q respecting Definitions* have the same meaning if used in this order, unless otherwise defined.

Representations

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

1. the Filer is not an OTC reporting issuer under *Regulation 51-105 respecting Issuers Quoted in the U.S. Over-the-Counter Markets*;

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

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in *Regulation 21-101 respecting Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and

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

Order

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

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

“Martin Latulippe”
Director, Continuous Disclosure
Autorité des marchés financiers

2.2.2 Bloomberg Trading Facility Limited – s. 147

Headnote

Application for an interim order that a multilateral trading facility authorized by the United Kingdom Financial Conduct Authority is exempt from the requirement to register as an exchange in Ontario with respect to swaps – requested order granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21, 147.

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

AND

IN THE MATTER OF
BLOOMBERG TRADING FACILITY LIMITED

ORDER
(Section 147 of the Act)

WHEREAS Bloomberg Trading Facility Limited (the **Applicant**) has filed an application dated August 2, 2017 (**Application**) with the Ontario Securities Commission (**Commission**) pursuant to section 147 of the Act requesting an interim order exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Order**);

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is a limited company organized under the laws of England and Wales, and is a wholly owned subsidiary of Bloomberg L.P., a Delaware limited partnership;

2. On July 23, 2015, the U.K. Financial Conduct Authority (the "**FCA**" or "**Foreign Regulator**"), a financial regulatory body in the United Kingdom, authorized the Applicant to act as the operator of a multilateral trading facility (**MTF**) for interest rate swaps and credit default swaps under Part 4A of the UK *Financial Services and Markets Act 2000*. On June 10, 2016, the FCA granted the Applicant a Variation of Permission that expanded the Applicant's authorization to additional financial instruments;

3. On January 3, 2018, the Markets in Financial Instruments Directive 2014/65/EU of the European Parliament and of the Council (**MiFID II**) will be implemented, requiring the Applicant to ensure that multilateral trading by European Union (**EU**)/European Economic Area (**EEA**) participants takes place on an EU-regulated trading venue. Without the Requested Relief, participants in Ontario will be precluded from trading with EU/EEA participants after January 3, 2018 in products that are required by regulatory technical standards made under Article 32 of Markets in Financial Instruments Regulation (EU) No 600/2014 of the European Parliament of the Council (**MiFIR**) to be traded on venues referred to in Article 28(1) of MiFIR (**Mandatory Trading Requirement**);

4. The Applicant is a marketplace for trading over-the-counter (**OTC**) derivative instruments and certain securities (the "**MTF Instruments**"). The Applicant's MTF supports request-for-quote and request-for-trade functionality for interest rate swaps, credit default swaps, government and corporate bonds and similar fixed-income instruments, foreign exchange derivatives (e.g., foreign exchange forwards, non-deliverable forwards and options), securities financing transactions (including repurchase transactions, buy-sell and sell-buy back transactions), exchange-traded funds (which are not listed, quoted or traded on a Canadian exchange), equity swaps and OTC equity options. The Applicant may add other types of financial instruments in the future, subject to obtaining required regulatory approvals;

5. The Applicant is subject to regulatory supervision by the FCA and is required to comply with the FCA's Handbook, which includes, among other things, rules on (i) the conduct of business (including rules regarding client categorization, communication with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating an MTF), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The FCA requires the Applicant to comply at all times with a set of threshold conditions for authorization, including requirements that the Applicant is "fit and proper" to be authorized and that it has appropriate resources for the activities it carries on. The Applicant is subject to prudential regulation, including minimum regulatory capital requirements, and is capitalized in excess of regulatory requirements. The Applicant is

required to maintain a permanent and effective compliance function, which is headed by the Applicant's Chief Compliance Officer, an FCA-approved person. The Applicant's Compliance Department is responsible for implementing and maintaining adequate policies and procedures designed to ensure that the Applicant (and all of its employees) comply with their obligations under the FCA rules.

6. An MTF is obliged under FCA rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and report to the FCA (a) significant breaches of Bloomberg MTF Rules, (b) disorderly trading conditions, and (c) conduct that may involve market abuse. The Applicant will also notify the FCA when a participant's access is terminated, and may notify the FCA when a participant is temporarily suspended or subject to condition(s). As required by FCA rules, the Applicant has implemented a trade surveillance program. As part of the program, the Applicant's Compliance Department conducts real-time market monitoring of trading activity on Bloomberg MTF to identify disorderly trading and market abuse or anomalies. The trade surveillance program is designed to maintain a fair and orderly market for Bloomberg MTF participants;

7. The Bloomberg MTF is available to participants via the Bloomberg Terminal and via application programming interface ("**API**"). This access is available for no additional fee to participants that are subscribers to the Bloomberg Terminal and pay the monthly subscription fee for the Bloomberg Terminal to Bloomberg Finance L.P. ("**BFLP**"), an affiliate of the Applicant. Although the Applicant does not currently charge a fee to Bloomberg MTF participants for the use of Bloomberg MTF, it plans to at a later time to charge Bloomberg MTF participants a per-trade fee or other fee for the use of Bloomberg MTF;

8. An MTF must submit all trades that are required to be cleared to a clearing house for clearing. The Applicant provides direct connectivity to the following clearing houses for clearing interest rate swaps: LCH Ltd. (formerly known as LCH.Clearnet Ltd.) and Chicago Mercantile Exchange, Inc., each of which is recognized or has obtained an exemption from recognition as a clearing agency in Ontario. The Applicant provides direct connectivity to the following clearing houses for credit default swaps: ICE Clear Credit LLC and Chicago Mercantile Exchange Inc., each of which has obtained an exemption from recognition as a clearing agency in Ontario;

9. The Applicant requires that its participants be "professional clients," as defined by the FCA in the FCA's Conduct of Business Sourcebook, Chapter 3 "Client categorisation" ("**Professional Clients**") and as set forth in Appendix I of this Application and be either (i) authorised as a credit institution with a license in an EEA country or as an EEA investment firm, or (ii) an entity that has satisfied and will continue to satisfy the Applicant that it is fit and proper to become a participant, with adequate organizational arrangements in place and a sufficient level of trading ability and competence. Each prospective participant must: comply and ensure that its authorized traders comply, and, in each case, continue to comply, with the Bloomberg MTF Rulebook and applicable law; have the legal capacity to trade in the instruments it selects to trade on the Bloomberg MTF; have appropriate systems and arrangements for the orderly clearance and/or settlement, as applicable, of transactions in all instruments it selects to trade on the Bloomberg MTF; have all registrations, authorizations, approvals and/or consents required by applicable law in connection with trading in instruments on the Bloomberg MTF; have adequate experience, knowledge and competence to transact in the MTF Instruments; and not be a natural person, independent software provider, trading venue or unregulated organized trading platform or system.

10. All participants that are located in Ontario ("**Ontario Participants**") will be required to sign a user acknowledgment representing that they meet the criteria set forth in the user acknowledgment, including that they are appropriately registered under Ontario securities laws, exempt from registration or not subject to registration requirements. The user acknowledgment will require an Ontario Participant to make an ongoing representation each time it uses the Bloomberg MTF that it continues to meet the criteria set forth in the user acknowledgment. An Ontario Participant will also be required to immediately notify the Applicant if it ceases to meet any of the above criteria represented by it on an ongoing basis;

11. The Applicant expects that Ontario Participants will include financial institutions, asset managers, dealers, government entities, pension funds and other well-capitalized entities that meet the criteria described above. The Applicant will not offer access to retail clients;

12. Because the MTF sets requirements for the conduct of its participants and surveils the trading activity of its participants, it is considered by the Commission to be an exchange;

13. Since the Applicant seeks to provide Ontario Participants with direct access to trading of the MTF Instruments on the Bloomberg MTF, it is considered by the Commission to be "carrying on business as an exchange" in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;

14. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein;

15. The Applicant intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange under section 147 of the Act ("**Subsequent Order**").

AND WHEREAS the products traded on the Applicant's MTF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

AND WHEREAS the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgments of the Applicant to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that, pursuant to section 147 of the Act, the Applicant is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

PROVIDED THAT:

1. This Order shall terminate on the earlier of (i) January 3, 2019 and (ii) the effective date of the Subsequent Order;

2. The Applicant complies with the terms and conditions contained in Schedule "A;" and

3. The Applicant files a full application to the Commission for a Subsequent Order by March 31, 2018.

DATED December 22, 2017

"T. Moseley"

"Grant Vingoe"

APPENDIX I

DEFINITION OF PROFESSIONAL CLIENTS

This Appendix I provides the definition of a "Professional Client," as defined by the FCA in the FCA's Conduct of Business Sourcebook, Chapter 3 "Client categorisation."

3.5 **Professional clients**

3.5.1 A *professional client* is a *client* that is either a *per se professional client* or an *elective professional client*.

[**Note**: article 4(1)(11) of *MiFID*]

Per se professional clients

3.5.2 Each of the following is a *per se professional client* unless and to the extent it is an eligible *counterparty* or is given a different categorisation under this chapter:

(1) an entity required to be authorised or regulated to operate in the financial markets. The following list includes all authorised entities carrying out the characteristic activities of the entities mentioned, whether authorised by an EEA State or a third country and whether or not authorised by reference to a directive:

(a) a *credit institution*;

(b) an *investment firm*;

(c) any other authorised or regulated financial institution;

(d) an insurance company;

(e) a collective investment scheme or the management company of such a scheme;

(f) a pension fund or the management company of a pension fund;

(g) a commodity or commodity derivatives dealer;

(h) a local;

(i) any other institutional investor;

(2) in relation to *MiFID or equivalent third country business* a large undertaking meeting two of the following size requirements on a company basis:

(a) balance sheet total of EUR 20,000,000;

(b) net turnover of EUR 40,000,000;

(c) own funds of EUR 2,000,000;

(3) in relation to business that is not *MiFID or equivalent third country business* a large undertaking meeting any of the following conditions:

(a) a *body corporate* (including a *limited liability partnership*) which has (or any of whose *holding companies* or *subsidiaries* has) (or has had at any time during the previous two years) called up share capital or net assets of at least £5 million (or its equivalent in any other currency at the relevant time);

(b) an undertaking that meets (or any of whose *holding companies* or *subsidiaries* meets) two of the following tests:

(i) a balance sheet total of EUR 12,500,000;

(ii) a net turnover of EUR 25,000,000;

(iii) an average number of employees during the year of 250;

(c) a *partnership* or unincorporated association which has (or has had at any time during the previous two years) net assets of at least £5 million (or its equivalent in any other currency at the relevant time) and calculated in the case of a limited *partnership* without deducting loans owing to any of the *partners*;

(d) a trustee of a trust (other than an *occupational pension scheme*, *SSAS*, *personal pension scheme* or *stakeholder pension scheme*) which has (or has had at any time during the previous two years) assets of at least £10 million (or its equivalent in any other currency at the relevant time) calculated by aggregating the value of the cash and *designated investments* forming part of the trust's assets, but before deducting its liabilities;

(e) a trustee of an *occupational pension scheme* or *SSAS*, or a trustee or *operator* of a *personal pension scheme* or *stakeholder pension scheme* where the scheme has (or has had at any time during the previous two years):

(i) at least 50 members; and

(ii) assets under management of at least £10 million (or its equivalent in any other currency at the relevant time);

(f) a local authority or public authority.

(4) a national or regional government, a public body that manages public debt, a central bank, an international or supranational institution (such as the World Bank, the IMF, the ECP, the EIB) or another similar international organisation;

(5) another institutional investor whose main activity is to invest in *financial instruments* (in relation to the firm's *MiFID* or *equivalent third country business*) or *designated investments* (in relation to the firm's other business). This includes entities dedicated to the securitisation of assets or other financing transactions.

[**Note**: first paragraph of section I of annex II to MiFID]

3.5.2A In relation to MiFID or e*quivalent third country business* a local authority or a public authority is not likely to be a regional government for the purposes of ● COBS 3.5.2 R (4). In the FCA's opinion, a local authority may be a *per se professional client* for those purposes if it meets the test for large undertakings in ● COBS 3.5.2 R (2).

Elective professional clients

3.5.3 A *firm* may treat a client as an *elective professional client* if it complies with (1) and (3) and, where applicable, (2):

(1) the *firm* undertakes an adequate assessment of the expertise, experience and knowledge of the *client* that gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the *client* is capable of making his own investment decisions and understanding the risks involved (the "qualitative test");

(2) in relation to *MiFID or equivalent third country business* in the course of that assessment, at least two of the following criteria are satisfied:

(a) the *client* has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters;

(b) the size of the *client's financial instrument portfolio*, defined as including cash deposits and *financial instruments*, exceeds EUR 500,000;

(c) the *client* works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged;

(the "quantitative test"); and

(3) the following procedure is followed:

(a) the *client* must state in writing to the *firm* that it wishes to be treated as a *professional client* either generally or in respect of a particular service or transaction or type of transaction or product;

(b) the *firm* must give the *client* a clear written warning of the protections and investor compensation rights the *client* may lose; and

(c) the *client* must state in writing, in a separate document from the contract, that it is aware of the consequences of losing such protections.

[**Note**: first, second, third and fifth paragraphs of section II.1 and first paragraph of section II.2 of annex II to *MiFID*]

3.5.4 If the *client* is an entity, the qualitative test should be performed in relation to the person authorised to carry out transactions on its behalf.

[**Note**: fourth paragraph of section II.1 of annex II to *MiFID*]

3.5.5 The fitness test applied to managers and directors of entities licensed under directives in the financial field is an example of the assessment of expertise and knowledge involved in the qualitative test.

[**Note**: fourth paragraph of section II.1 of annex II to *MiFID*]

3.5.6 Before deciding to accept a request for re-categorisation as an *elective professional client* a *firm* must take all reasonable steps to ensure that the client requesting to be treated as an *elective professional client* satisfies the qualitative test and, where applicable, the quantitative test.

[**Note**: second paragraph of section II.2 of annex II to *MiFID*]

3.5.7 An *elective professional client* should not be presumed to possess market knowledge and experience comparable to a *per se professional client*.

[**Note**: second paragraph of section II.1 of annex II to *MiFID*]

3.5.8 *Professional clients* are responsible for keeping the *firm* informed about any change that could affect their current categorisation.

[**Note**: fourth paragraph of section II.2 of annex II to MiFID]

3.5.9 (1) If a *firm* becomes aware that a *client* no longer fulfils the initial conditions that made it eligible for categorisation as an *elective professional client*, the *firm* must take the appropriate action.

(2) Where the appropriate action involves re-categorising that client as a *retail client*, the firm must notify that *client* of its new categorisation.

[**Note**: fourth paragraph of section II.2 of annex II to MiFID and article 28(1) of the MiFID implementing Directive]

SCHEDULE "A"

TERMS AND CONDITIONS

Regulation and Oversight of the Applicant

1. The Applicant will maintain its registration as a multilateral trading facility (**MTF**) with the U.K. Financial Conduct Authority (**FCA**) and will continue to be subject to the regulatory oversight of the FCA.

2. The Applicant will continue to comply with the ongoing requirements applicable to it as an MTF registered with the FCA.

3. The Applicant will promptly notify the Commission if its registration as an MTF has been revoked, suspended, or amended by the FCA, or the basis on which its registration as an MTF has been granted has significantly changed.

4. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

Access

5. The Applicant will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as a "professional client", as defined by the FCA in the FCA's Conduct of Business Sourcebook, Chapter 3 "Client Categorisation."

6. For each Ontario User provided direct access to its MTF, the Applicant will require, as part of its application documentation or continued access to the MTF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.

7. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses the Applicant's MTF.

8. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant if the Ontario User is no longer appropriately registered or exempt from those requirements.

9. The Applicant must make available to Ontario Users appropriate training for each person who has access to trade on the Applicant's facilities.

Trading by Ontario Users

10. The Applicant will not provide access to an Ontario User to trading in products other than swaps, as defined in section 1a(47) of the United States Commodity Exchange Act as amended, without prior Commission approval.

Submission to Jurisdiction and Agent for Service

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.

12. The Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

Disclosure

13. The Applicant will provide to its Ontario Users disclosure that:

(a) rights and remedies against the Applicant may only be governed by the laws of the United States (**U.S.**), rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario; and

(b) the rules applicable to trading on the Applicant may be governed by the laws of the United Kingdom or U.S., rather than the laws of Ontario.

Prompt Reporting

14. The Applicant will notify staff of the Commission promptly of:

(a) any material change to its business or operations or the information provided in the Application, including, but not limited to material changes:

(i) to the regulatory oversight by the FCA;

(ii) the corporate governance structure of the Applicant;

(iii) the access model, including eligibility criteria, for Ontario Users;

(iv) systems and technology; and

(v) the clearing and settlement arrangements for the Applicant;

(b) any change in the Applicant's regulations or the laws, rules and regulations in the U.K. relevant to the financial instruments available for trading on the Applicant's MTF where such change may materially affect its ability to meet the criteria set out in Appendix I to this Schedule;

(c) any condition or change in circumstances whereby the Applicant is unable or anticipates it will not be able to continue to meet any of the relevant rules and regulations of the FCA, as set forth in the FCA Handbook;

(d) any known investigations of, or any disciplinary action against the Applicant by the FCA or any other regulatory authority to which it is subject;

(e) any matter known to the Applicant that may materially and adversely affect its financial or operational viability, including, but not limited to, any declaration of an emergency pursuant to the Applicant's rules;

(f) any default, insolvency, or bankruptcy of a participant of the Applicant known to the Applicant or its representatives that may have a material, adverse impact upon the Applicant; and

(g) any material systems outage, malfunction or delay.

15. The Applicant will promptly provide staff of the Commission with the following information to the extent it is required to provide to or file such information with the FCA:

(a) details of any material legal proceeding instituted against the Applicant;

(b) notification that the Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it; and

(c) the appointment of a receiver or the making of any voluntary arrangement with creditors.

Quarterly Reporting

16. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:

(a) a current list of all Ontario Users and whether the Ontario User is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading on the Applicant's MTF as customers of participants (Other Ontario Participants);

(b) the legal entity identifier assigned to each Ontario User, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;

(c) a list of all Ontario Users whom the Applicant has referred to the FCA, or, to the best of the Applicant's knowledge, whom have been disciplined by the FCA with respect to such Ontario Users' activities on the Applicant's MTF and the aggregate number of all participants referred to the FCA in the last quarter by the Applicant;

(d) a list of all active investigations during the quarter by the Applicant relating to Ontario Users and the aggregate number of active investigations during the quarter relating to all participants undertaken by the Applicant;

(e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant during the quarter, together with the reasons for each such denial;

(f) a list of all additions, deletions, or changes to the products available for trading since the prior quarter;

(g) for each product,

(i) the total trading volume and value originating from Ontario Users, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario User or per Other Ontario Participant basis; and

(ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Users and Other Ontario Participants;

provided in the required format; and

(h) a list outlining each material incident of a security breach, systems failure, malfunction, or delay (including cyber security breaches, systems failures, malfunctions or delays reported under section 15(g) of this Schedule) that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason, to the extent known or ascertainable by the Applicant, for the failure, malfunction or delay, and noting any corrective action taken.

Annual Reporting

17. The Applicant will file with the Commission any annual financial report or financial statements (audited or unaudited) of the Applicant provided to or filed with the FCA promptly after filing with the FCA.

Information Sharing

18. The Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.3 CAE Inc. – s. 6.1 of NI 62-104 Take-Over Bids and Issuer Bids

Headnote

Section 6.1 of NI 62-104 – Issuer bid – relief from the requirements applicable to issuer bids in Part 2 of NI 62-104 – Issuer proposes to purchase, at a discounted purchase price, up to 600,000 of its common shares from one of its shareholders – due to the discounted purchase price, proposed purchase cannot be made through the TSX trading system – but for the fact that the proposed purchase cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in accordance with the TSX rules governing normal course issuer bids, in reliance on the issuer bid exemption in subsection 4.8(2) of NI 62-104 – the selling shareholder did not purchase the subject shares in anticipation or contemplation of resale to the Issuer and no common shares have been purchased by the selling shareholder for a minimum of 30 days prior to the date of the application seeking the requested relief in anticipation or contemplation of a sale of common shares by the selling shareholder to the Issuer – no adverse economic impact on, or prejudice to, the Issuer or other security holders – proposed purchase exempt from the requirements applicable to issuer bids in Part 2 of NI 62-104, subject to conditions, including that the Issuer not purchase, in the aggregate, more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases, and that the Issuer not make the proposed purchase unless it has first obtained written confirmation from the selling shareholder that, between the date of the order and the date on which the proposed purchase is completed, the selling shareholder has not purchased, had purchased on its behalf, or otherwise accumulated, any common shares of the Issuer to re-establish its holdings of common shares which will have been reduced as a result of the sale of the subject shares pursuant to the proposed purchase.

Statutes Cited

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

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

AND

IN THE MATTER OF
CAE INC.

ORDER
(Section 6.1 of National Instrument 62-104)

UPON the application (the **Application**) of CAE Inc. (the **Issuer**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 6.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (**NI 62-104**) exempting the Issuer from the requirements applicable to issuer bids in Part 2 of NI 62-104 (the **Issuer Bid Requirements**) in respect of the proposed purchase by the Issuer of up to an aggregate of 600,000 common shares of the Issuer (collectively, the **Subject Shares**) in one tranche from The Bank of Nova Scotia (the **Selling Shareholder**);

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

AND UPON the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 9, 10, 14, 25 and 26, as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Business Corporations Act* (Québec).

2. The head office and registered office of the Issuer is located at 8585 Cote-de-Liesse, Saint Laurent, Quebec, H4T 1G6.

3. The Issuer is a reporting issuer in each of the provinces of Canada and the common shares of the Issuer (the **Common Shares**) are listed for trading on the Toronto Stock Exchange (the **TSX**) under the symbol “CAE”. The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The authorized capital stock of the Issuer consists of an unlimited number of Common Shares, and an unlimited number of preferred shares. As at November 30, 2017, there were 268,051,323 Common Shares and no preferred shares issued and outstanding.

5. The executive offices of the Selling Shareholder are located in the Province of Ontario.

6. The Selling Shareholder does not own, directly or indirectly, more than 5% of the issued and outstanding Common Shares.

7. The Selling Shareholder is the beneficial owner of at least 600,000 Common Shares. All of the Subject Shares are held by the Selling Shareholder in the Province of Ontario. The negotiation, execution and delivery of the Agreement (as defined below) and the execution and settlement of the trade contemplated thereunder will be undertaken by members of the Global Equity Derivatives group of the Selling Shareholder who are in the Province of Ontario. None of the Subject Shares were acquired by, or on behalf of, the Selling Shareholder in anticipation or contemplation of resale to the Issuer.

8. No Common Shares were purchased by, or on behalf of, the Selling Shareholder on or after November 6, 2017, being the date that was 30 days prior to the date of the Application, in anticipation or contemplation of a sale of Common Shares to the Issuer.

9. The Subject Shares are held by the Selling Shareholder in connection with arrangements to hedge client transactions in respect of the Common Shares. Between the date of this Order and the date on which the Proposed Purchase (as defined below) is to be completed, the Selling Shareholder will not purchase, have purchased on its behalf, or otherwise accumulate, any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of the Subject Shares pursuant to the Proposed Purchase.

10. The Selling Shareholder is at arm's length to the Issuer and is not an "insider" of the Issuer, an "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the *Securities Act* (Ontario) (the **Act**). The Selling Shareholder is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus Exemptions*.

11. Pursuant to the terms of a "Notice of Intention to Make a Normal Course Issuer Bid" (the **Notice**) that was submitted to, and accepted by, the TSX, the Issuer is permitted to make a normal course issuer bid (the **Normal Course Issuer Bid**) to purchase for cancellation, during the 12-month period beginning on February 23, 2017 and ending on February 22, 2018, up to 5,366,756 Common Shares, representing approximately 2.0% of the issued and outstanding Common Shares as of the date specified in the Notice. In accordance with the Notice, the Normal Course Issuer Bid is being conducted through the facilities of the TSX or by such other means as may be permitted by the TSX in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the **TSX NCIB Rules**), or by securities regulatory authorities, including pursuant to private agreements under issuer bid exemption orders issued by securities regulatory authorities (each, an **Off-Exchange Block Purchase**). The TSX has been advised of the Issuer's intention to enter into the Proposed Purchase and has confirmed that it has no objection to the Proposed Purchase.

12. The Issuer has established an automatic share repurchase plan (the **ASRP**) to permit the Issuer to make purchases under its Normal Course Issuer Bid at such times when the Issuer would not be permitted to trade in the Common Shares, including during internal blackout periods (each such time, a **Blackout Period**). The ASRP was pre-cleared by the TSX and complies with the TSX NCIB Rules, applicable securities laws and this Order. Under the ASRP, at times it is not subject to blackout restrictions, the Issuer may, but is not required to, instruct the designated broker under the ASRP (the **ASRP Broker**) to make purchases under its Normal Course Issuer Bid in accordance with the terms of the ASRP. Such purchases will be determined by the ASRP Broker in its sole discretion based on parameters established by the Issuer prior to any Blackout Period in accordance with TSX rules, applicable securities laws (including this Order) and the terms of the agreement between the ASRP Broker and the Issuer. If the Issuer determines to instruct the ASRP Broker to make purchases under the ASRP during a particular Blackout Period, the Issuer will instruct the ASRP Broker not to conduct a block purchase (a **Block Purchase**) in reliance on the block purchase exception in clause 629(l)(7) of the TSX NCIB Rules in a calendar week in which either (a) the Issuer completed a Proposed Purchase, or (b) a Blackout Period ends and a new trading window of the Issuer opens.

13. As of December 6, 2017, the Issuer has purchased for cancellation an aggregate of 1,398,600 Common Shares pursuant to the Normal Course Issuer Bid, none of which were purchased pursuant to Off-Exchange Block Purchases.

14. The Issuer and the Selling Shareholder intend to enter into an agreement of purchase and sale (the **Agreement**) pursuant to which the Issuer will agree to acquire some or all of the Subject Shares from the Selling Shareholder before February 22, 2018 (the **Proposed Purchase**) for a purchase price (the **Purchase Price**) that will be negotiated at arm's length between the Issuer and the Selling Shareholder. The Purchase Price will be at a discount to the prevailing market price of the Common Shares on the TSX and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the Proposed Purchase.

15. The Subject Shares acquired under the Proposed Purchase will constitute a "block" as that term is defined in section 628 of the TSX NCIB Rules.

16. The purchase of any of the Subject Shares by the Issuer pursuant to the Agreement will constitute an "issuer bid" for the purposes of NI 62-104, to which the applicable Issuer Bid Requirements would apply.

17. Because the Purchase Price will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the Proposed Purchase, the Proposed Purchase cannot be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholder in reliance on the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of NI 62-104.

18. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the Proposed Purchase, the Issuer could otherwise acquire the Subject Shares through the facilities of the TSX as a Block Purchase in accordance with the block purchase exception in clause 629(l)7 of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of NI 62-104.

19. The sale of any of the Subject Shares to the Issuer will not be a "distribution" (as defined in the Act).

20. The Issuer will be able to acquire the Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.

21. Management of the Issuer is of the view that (a) the Issuer will be able to purchase the Subject Shares pursuant to the Proposed Purchase at a lower price than the price at which it would otherwise be able to purchase Common Shares under the Normal Course Issuer Bid in accordance with the TSX NCIB Rules and the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of NI 62-104, and (b) the Proposed Purchase is an appropriate use of the Issuer's funds on hand.

22. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's security holders and will not materially affect control of the Issuer. To the knowledge of the Issuer, the Proposed Purchase will not prejudice the ability of other security holders of the Issuer to otherwise sell Common Shares in the open market at the then prevailing market price. The Proposed Purchase will be carried out at minimal cost to the Issuer.

23. To the best of the Issuer's knowledge, as of November 30, 2017, the "public float" of the Common Shares represented approximately 99% of all the issued and outstanding Common Shares for the purposes of the TSX NCIB Rules.

24. The Common Shares are "highly-liquid securities" within the meaning of section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* and section 1.1 of the Universal Market Integrity Rules.

25. Other than the Purchase Price, no fee or other consideration will be paid by the Issuer to the Selling Shareholder in connection with the Proposed Purchase.

26. At the time that the Agreement is negotiated or entered into by the Issuer and the Selling Shareholder and at the time of the Proposed Purchase, neither the Issuer, nor any member of the Global Equity Derivatives group of the Selling Shareholder, nor any personnel of the Selling Shareholder that negotiated the Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or any "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

27. The Issuer will not make the Proposed Purchase unless it has first obtained confirmation in writing from the Selling Shareholder that, between the date of this Order and the date on which the Proposed Purchase is to be completed, the Selling Shareholder has not purchased, had purchased on its behalf, or otherwise accumulated any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of the Subject Shares pursuant to the Proposed Purchase.

28. The Issuer will not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate, more than one-third of the maximum number of Common Shares that the Issuer can purchase under the Normal Course Issuer Bid, such one-third being equal to 1,788,918 Common Shares as of the date of this Order.

29. The Agreement will not be negotiated or entered into during any Blackout Period. If a Blackout Period is in effect, the Issuer will not purchase Subject Shares pursuant to the Proposed Purchase until the later of (a) the end of such Blackout Period, and (b) the passage of two clear trading days from the date of the dissemination to the public of the Issuer's financial results and/or any and all "material changes" or any "material facts" (each as defined in the Act) in respect of the Issuer or the Common Shares relating to such Blackout Period.

30. Assuming completion of the purchase of the maximum number of Subject Shares, being 600,000 Common Shares, the Issuer will have purchased under the Normal Course Issuer Bid an aggregate of 600,000 Common Shares pursuant to Off-Exchange Block Purchases, representing approximately 11.18% of the 5,366,756 Common Shares authorized to be purchased under the Normal Course Issuer Bid.

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

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

(a) the Proposed Purchase will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer's Normal Course Issuer Bid in accordance with the TSX NCIB Rules;

(b) the Issuer will refrain from conducting either a Block Purchase in accordance with the TSX NCIB Rules or another Off-Exchange Block Purchase during the calendar week in which it completes the Proposed Purchase and will not make any further purchases under the Normal Course Issuer Bid for the remainder of the calendar day on which it completes the Proposed Purchase;

(c) the Purchase Price in respect of the Proposed Purchase will be at a discount to the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of the Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Common Shares pursuant to the Normal Course Issuer Bid, in accordance with the Notice and the TSX NCIB Rules, and, subject to condition (i) below by Off-Exchange Block Purchases;

(e) immediately following the Proposed Purchase of Subject Shares from the Selling Shareholder, the Issuer will report the purchase of such Subject Shares to the TSX;

(f) at the time that the Agreement is negotiated or entered into by the Issuer and the Selling Shareholder and at the time of the Proposed Purchase, neither the Issuer, nor any member of the Global Equity Derivatives group of the Selling Shareholder, nor any personnel of the Selling Shareholder that negotiated the Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or any "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed;

(g) in advance of the Proposed Purchase, the Issuer will issue a press release disclosing (i) its intention to make the Proposed Purchase, and (ii) that information regarding the Proposed Purchase, including the number of Subject Shares purchased and the aggregate Purchase Price, will be available on the System for Electronic Document Analysis and Retrieval (SEDAR) following the completion of the Proposed Purchase;

(h) the Issuer will report information regarding the Proposed Purchase, including the number of Subject Shares purchased and the aggregate Purchase Price, on SEDAR before 5:00 p.m. (Toronto time) on the business day following the completion of the Proposed Purchase;

(i) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate, more than one-third of the maximum number of Common Shares the Issuer can purchase under the Normal Course Issuer Bid, such one third being equal to, as of the date of this Order, 1,788,918 Common Shares; and

(j) the Issuer will not make the Proposed Purchase unless it has first obtained confirmation in writing from the Selling Shareholder that, between the date of this Order and the date on which the Proposed Purchase is to be completed, the Selling Shareholder has not purchased, had purchased on its behalf, or otherwise accumulated any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of the Subject Shares pursuant to the Proposed Purchase.

DATED at Toronto this 21st day of December, 2017.

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

2.2.4 The Bank of Nova Scotia and The Toronto-Dominion Bank – ss. 6.1 of NI 62-104 Take-Over Bids and Issuer Bids

Headnote

Section 6.1 of NI 62-104 – Issuer bid – relief from the requirements applicable to issuer bids in Part 2 of NI 62-104 – issuer proposes to purchase, pursuant to a repurchase program and at a discounted purchase price, up to a specified number of its common shares under its normal course issuer bid from a third party – the third party will abide by the requirements governing normal course issuer bids as though it was the issuer, subject to certain modifications, including that the third party will not make any purchases under the program pursuant to a pre-arranged trade – common shares delivered to the issuer for cancellation will be common shares from the third party's existing inventory – due to the discounted purchase price, the common shares cannot be acquired through the TSX trading system – but for the fact that the common shares cannot be acquired through the TSX trading system, the Issuer could otherwise acquire such shares in accordance with TSX rules and in reliance upon the issuer bid exemption available under section 4.8 of NI 62-104 – the third party will purchase common shares under the program on the same basis as if the issuer had conducted the bid in reliance on the normal course issuer bid exemptions set out in securities legislation – no adverse economic impact on, or prejudice to the issuer or its security holders – acquisition of securities exempt from the requirements applicable to issuer bids in Part 2 of NI 62-104, subject to conditions, including that the number of common shares transferred by the third party from its existing inventory to the issuer for purchase under the program be equivalent to the number of common shares that the third party has purchased, or had purchased on its behalf, on Canadian markets.

Statutes Cited

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

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

AND

IN THE MATTER OF
THE BANK OF NOVA SCOTIA AND
THE TORONTO-DOMINION BANK

ORDER
(Section 6.1 of National Instrument 62-104)

UPON the application (the "**Application**") of The Bank of Nova Scotia (the "**Issuer**") and The Toronto-Dominion Bank ("**TD**", and together with the Issuer, the "**Filers**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to section 6.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("**NI 62-104**") exempting the Issuer from the requirements applicable to issuer bids in Part 2 of NI 62-104 (the "**Issuer Bid Requirements**") in respect of the proposed purchases by the Issuer of up to 3,000,000 (the "**Program Maximum**") of its common shares (the "**Common Shares**") from TD pursuant to a share repurchase program (the "**Program**");

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

AND UPON the Issuer having represented to the Commission the matters set out in paragraphs 1 to 4, inclusive, 10 to 18, inclusive, 20 to 27, inclusive, 31, 33, 35 to 37, inclusive, 39 and 40;

AND UPON TD and TD Securities Inc. ("**TDSI**", and together with TD, the "**TD Entities**") having represented to the Commission the matters set out in paragraphs 5 to 9, inclusive, 17, 19 to 21, inclusive, 24, 26, 28 to 32, inclusive, 34, 38, 40 and 41 as they relate to the TD Entities;

1. The Issuer is a Schedule I bank governed by the *Bank Act* (Canada).

2. The Issuer's registered and head office is located at 1709 Hollis Street, Halifax, Nova Scotia, B3J 1W1 and its executive offices are at 44 King Street West, Toronto, Ontario, M5H 1H1.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada (the "**Jurisdictions**") and the Common Shares are listed for trading on the Toronto Stock Exchange (the "**TSX**") and the New York Stock Exchange under the symbol "BNS". The Issuer is not in default of any requirement of the securities legislation of the Jurisdictions.

4. The authorized share capital of the Issuer consists of an unlimited number of Common Shares and an unlimited number of preferred shares, issuable in series. As at November 30, 2017: (a) 1,199,621,486 Common Shares; (b) 7,497,663 non-cumulative preferred shares series 18; (c) 6,302,337 non-cumulative preferred shares series 19; (d) 8,039,268 non-cumulative preferred shares series 20; (e) 5,960,732 non-cumulative preferred shares series 21; (f) 9,376,944 non-cumulative preferred shares series 22; (g) 2,623,056 non-cumulative preferred shares series 23; (h) 6,142,738 non-cumulative preferred shares series 30; (i) 4,457,262 non-cumulative preferred shares series 31; (j) 11,161,422 non-cumulative preferred shares series 32; (k) 5,184,345 non-cumulative preferred shares series 33; (l) 14,000,000 non-cumulative preferred shares series 34; (m) 20,000,000 non-cumulative preferred shares series 36; and (n) 20,000,000 non-cumulative preferred shares series 38, were issued and outstanding.

5. TDSI is registered as an investment dealer under the securities legislation of the Jurisdictions. It is also registered as: (a) a futures commission merchant under the *Commodity Futures Act* (Ontario); (b) a derivatives dealer under the *Derivatives Act* (Québec); and (c) a dealer (futures commission merchant) under *The Commodity Futures Act* (Manitoba). TDSI is a member of the Investment Industry Regulatory Organization of Canada ("**IIROC**") and the Canadian Investor Protection Fund, a participating organization or member of the TSX, TSX Venture Exchange and Canadian Securities Exchange, and an approved participant of the Bourse de Montréal. The head office of TDSI is located in Toronto, Ontario.

6. TD is a Schedule I bank governed by the *Bank Act* (Canada). The corporate headquarters of TD are located in the Province of Ontario.

7. TD does not own, directly or indirectly, more than 5% of the issued and outstanding Common Shares.

8. TD is the beneficial owner of at least 3,000,000 Common Shares, none of which were acquired by, or on behalf of, TD in anticipation or contemplation of resale to the Issuer (such Common Shares over which TD has beneficial ownership, the "**Inventory Shares**"). All of the Inventory Shares are held by TD in the Province of Ontario and all purchases of Inventory Shares by the Issuer from TD will be executed and settled in the Province of Ontario. No Common Shares were purchased by, or on behalf of, TD on or after November 7, 2017, being the date that was 30 days prior to the date of the Application, in anticipation or contemplation of a sale of Common Shares by TD to the Issuer.

9. TD is at arm's length to the Issuer and is not an "insider" of the Issuer, an "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the *Securities Act* (Ontario) (the "**Act**"). TD is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus Exemptions*.

10. The Issuer announced on May 30, 2017 the renewal of its normal course issuer bid (the "**NCIB**") to purchase for cancellation, during the 12-month period beginning on June 2, 2017 and ending on June 1, 2018, up to 24,000,000 Common Shares, representing approximately 2% of the issued and outstanding Common Shares as of the date specified in the Notice of Intention to Make a Normal Course Issuer Bid (the "**Notice**"), which was accepted by the TSX. The Notice specifies that purchases made under the NCIB are to be conducted through the facilities of the TSX as well as other designated exchanges and published markets in Canada, or by such other means as may be permitted by the TSX in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the "**TSX NCIB Rules**") or a securities regulatory authority, including under automatic trading plans, and by private agreements or share repurchase programs under issuer bid exemption orders issued by securities regulatory authorities.

11. The NCIB is being conducted in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of NI 62-104 (the "**Designated Exchange Exemption**").

12. The NCIB is also being conducted in the normal course on other permitted published markets (collectively, the "**Other Published Markets**") in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(3) of NI 62-104 (the "**Other Published Markets Exemption**", and together with the Designated Exchange Exemption, the "**Exemptions**").

13. Pursuant to the TSX NCIB Rules, the Issuer has appointed Scotia Capital Inc. as its designated broker in respect of the NCIB (the "**Responsible Broker**").

14. Effective May 30, 2017, the Issuer implemented an automatic share purchase plan ("**ASPP**") to permit the Issuer to make purchases under the NCIB at such times when the Issuer would not be permitted to trade in its securities, including during regularly scheduled quarterly blackout periods and other internal blackout periods (each such time, a "**Blackout Period**"). The ASPP was approved by the TSX and complies with the TSX NCIB Rules and applicable securities laws. The ASPP will not be in effect during the Program Term (as defined below).

15. The maximum number of Common Shares that the Issuer is permitted to repurchase under the NCIB will be reduced by the number of purchases under the ASPP and purchases to date, if any.

16. The Commission granted the Issuer an order on June 2, 2017 pursuant to section 6.1 of NI 62-104 exempting the Issuer from the Issuer Bid Requirements in connection with the proposed purchase by the Issuer of up to 4,000,000 Common Shares from TD pursuant to a share repurchase agreement (the "**Prior TD Program**"). As at December 7, 2017, the Issuer has purchased a total of 4,000,000 Common Shares pursuant to the NCIB, all of which were purchased pursuant to the Prior TD Program.

17. The Filers wish to participate in the Program during, and as part of, the NCIB to enable the Issuer to purchase from TD, and for TD to sell to the Issuer, a number of Common Shares up to the Program Maximum.

18. To the best of the Issuer's knowledge, the "public float" (calculated in accordance with the TSX NCIB Rules) for the Common Shares as at November 30, 2017 consisted of 1,199,195,401 Common Shares. The Common Shares are "highly-liquid securities" as that term is defined in section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* ("**OSC Rule 48-501**") and section 1.1 of the *Universal Market Integrity Rules* ("**UMIR**").

19. Pursuant to the terms of the Program Agreement (as defined below), TDSI has been retained by TD to acquire Common Shares through the facilities of the TSX and on Other Published Markets in Canada (each, a "**Canadian Other Published Market**" and collectively with the TSX, the "**Canadian Markets**") under the Program. No Common Shares will be acquired under the Program on a market that is not a Canadian Market.

20. The Program will be governed by, and conducted in accordance with, the terms and conditions of a Share Repurchase Program Agreement (the "**Program Agreement**") that will be entered into among the Filers and TDSI prior to the commencement of the Program, a copy of which will be delivered by the Filers to the Commission promptly thereafter.

21. The Program will terminate on the earlier of: (a) January 31, 2018; and (b) the date on which the Issuer will have purchased the Program Maximum under the Program (the "**Program Term**"). Neither the Issuer nor any of the TD Entities may unilaterally terminate the Program Agreement during the Program Term, except in the case of an event of default by a party thereunder or a change in law or announced change in law that would have adverse consequences to the transactions contemplated thereunder or to the Issuer or the TD Entities.

22. At least two clear Trading Days (as defined below) prior to the commencement of the Program, the Issuer will issue and file a press release that has been pre-cleared by the TSX that: (a) describes the material features of the Program, including the Program Term; (b) discloses the Issuer's intention to participate in the Program during the NCIB; (c) states that it is the Issuer's current intention to purchase the Program Maximum, but that the number of Common Shares purchased pursuant to the Program may be less than the Program Maximum; (d) provides an explanation as to why less than the Program Maximum may be purchased; and (e) states that, immediately following the completion of the Program, the Issuer will issue and file the Completion Press Release (as defined below) (the "**Commencement Press Release**").

23. The Program Maximum will not exceed the number of Common Shares remaining that the Issuer is entitled to acquire under the NCIB, calculated as at the date of the Program Agreement.

24. The Program Term may include Blackout Periods. During a Blackout Period, the Program will:

    (a) be an "automatic securities purchase plan" as defined in National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (as applied, *mutatis mutandis*, to purchases made by an issuer), and TDSI will conduct the Program in its sole discretion, in accordance with the irrevocable instructions established by the Issuer, and conveyed by the Issuer to TDSI, at a time when the Issuer was not in a Blackout Period (the "**Irrevocable Instructions**"); and

    (b) comply with applicable securities regulatory requirements and guidance, including, *inter alia*, clause 175(2) of Regulation 1015 of the Act, OSC Staff Notice 55-701 *Automatic Securities Disposition Plans and Automatic Securities Purchase Plans* and similar rules and regulations regarding automatic acquisitions of securities under Canadian securities laws.

25. The TSX has: (a) been advised of the Issuer's intention to enter into the Program; (b) been provided with drafts of the Program Agreement and the Commencement Press Release; and (c) confirmed that it has no objection to the Issuer conducting the Program as part of the NCIB.

26. At such times during the Program Term when the Issuer is not in a Blackout Period, TDSI will purchase Common Shares on the applicable Trading Day in accordance with instructions received by TDSI from the Issuer prior to the opening of trading on such day, which instructions will be the same instructions that the Issuer would give to the Responsible Broker if the Issuer was conducting the NCIB in reliance on the Exemptions.

27. The Issuer will not give purchase instructions in respect of the Program to TDSI at any time that the Issuer is aware of Undisclosed Information (as defined below).

28. All Common Shares acquired for the purposes of the Program by TDSI on a day during the Program Term on which Canadian Markets are open for trading (each, a "**Trading Day**") must be acquired on Canadian Markets in accordance with the TSX NCIB Rules and any by-laws, rules, regulations or policies of the Canadian Markets upon which purchases are carried out (collectively, the "**NCIB Rules**") that would be applicable to the Issuer in connection with the NCIB, provided that:

    (a) the aggregate number of Common Shares to be acquired on Canadian Markets by TDSI on each Trading Day shall not exceed the maximum daily limit that is imposed upon the NCIB pursuant to the TSX NCIB Rules, determined with reference to an average daily trading volume that is based on the trading volume of the Common Shares on all Canadian Markets rather than being limited to the trading volume on the TSX only (the "**Modified Maximum Daily Limit**"), it being understood that the aggregate number of Common Shares to be acquired on the TSX by TDSI on each Trading Day will not exceed the maximum daily limit that is imposed on the NCIB pursuant to the TSX NCIB Rules; and

    (b) notwithstanding the block purchase exception provided for in the TSX NCIB Rules, no purchases will be made by TDSI on any Canadian Markets pursuant to a pre-arranged trade.

29. The aggregate number of Common Shares acquired by TDSI in connection with the Program:

    (a) shall not exceed the Program Maximum; and

    (b) on Canadian Other Published Markets, shall not exceed that number of Common Shares remaining eligible for purchase by the Issuer pursuant to the Other Published Markets Exemption, calculated as at the date of the Program Agreement.

30. On every Trading Day, TDSI will purchase the Number of Common Shares. The "**Number of Common Shares**" will be no greater than the least of:

    (a) the maximum number of Common Shares that can be purchased (i) as established in the instructions received by TDSI from the Issuer prior to the opening of trading on such day at such times when the Issuer is not in a Blackout Period, or (ii) pursuant to the Irrevocable Instructions at such times when the Issuer is in a Blackout Period;

    (b) the Program Maximum less the aggregate number of Common Shares previously purchased by TDSI under the Program;

    (c) on a Trading Day where trading ceases on the TSX or some other event that would impair TDSI's ability to acquire Common Shares on Canadian Markets occurs (a "**Market Disruption Event**"), the number of Common Shares acquired by TDSI on such Trading Day up until the time of the Market Disruption Event; and

    (d) the Modified Maximum Daily Limit.

31. TD will deliver to the Issuer that number of Inventory Shares equal to the Number of Common Shares purchased by TDSI on a Trading Day under the Program on the Trading Day immediately thereafter (or such other Trading Day as agreed to between the parties to the Program Agreement), and the Issuer will pay TD a purchase price equal to the Discounted Price for each such Inventory Share. Each Inventory Share purchased by the Issuer under the Program will be cancelled upon delivery to the Issuer.

    The "**Discounted Price**" per Common Share will be equal to: (a) the volume weighted average price of the Common Shares on the Canadian Markets on the Trading Day on which purchases were made less an agreed upon discount; or (b) upon the occurrence of a Market Disruption Event, the volume weighted average price of the Common Shares on the Canadian Markets at the time of the Market Disruption Event less an agreed upon discount.

32. TD will not sell any Inventory Shares to the Issuer unless TDSI has purchased the equivalent number of Common Shares on Canadian Markets under the Program. The number of Common Shares that are purchased by TDSI on Canadian Markets under the Program on a Trading Day will be equal to the Number of Common Shares for such Trading Day. TDSI will provide the Issuer with a daily written report of TDSI's purchases, which report will indicate, *inter alia*, the aggregate number of Common Shares acquired under the Program, the Canadian Market on which such Common Shares were acquired, and the Modified Maximum Daily Limit.

33. During the Program Term, the Issuer will: (a) not purchase, directly or indirectly, any Common Shares (other than Inventory Shares purchased under the Program); (b) prohibit the Responsible Broker from acquiring any Common Shares on its behalf; and (c) prohibit the designated broker under the ASPP from acquiring any Common Shares on its behalf.

34. All purchases of Common Shares under the Program will be made by TDSI and neither of the TD Entities will engage in any hedging activity in connection with the conduct of the Program.

35. The Issuer will report its purchases of Common Shares under the Program to the TSX in accordance with the TSX NCIB Rules. In addition, immediately following the completion of the Program, the Issuer will: (a) report the total number of Common Shares acquired under the Program to the TSX and the Commission; and (b) issue and file a press release that announces the completion of the Program and sets out the number of Common Shares acquired under the Program and the aggregate dollar amount paid for such Common Shares (the "**Completion Press Release**").

36. The Issuer is of the view that: (a) it will be able to purchase Common Shares from TD at a lower price than the price at which it would be able to purchase an equivalent quantity of Common Shares under the NCIB in reliance on the Exemptions; and (b) the purchase of Common Shares pursuant to the Program is in the best interests of the Issuer and constitutes an appropriate use of the Issuer's funds.

37. The entering into of the Program Agreement, the purchase of Common Shares by TDSI in connection with the Program, and the sale of Inventory Shares by TD to the Issuer will not adversely affect the Issuer or the rights of any of the Issuer's security holders and will not materially affect control of the Issuer.

38. The sale of Inventory Shares to the Issuer by TD will not be a "distribution" (as defined in the Act).

39. The Issuer will be able to acquire the Inventory Shares from TD without the Issuer being subject to the dealer registration requirements of the Act.

40. At the time that the Issuer and the TD Entities enter into the Program Agreement, neither the Issuer, nor any member of the Equity Derivatives Group of TD, nor any personnel of either of the TD Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, will be aware of any "material change" or "material fact" (each as defined in the Act) with respect to the Issuer or the Common Shares that has not been generally disclosed (the "**Undisclosed Information**").

41. Each of the TD Entities:

    (a) has policies and procedures in place to ensure that the Program will be conducted in accordance with, among other things, the Program Agreement and this Order, and to preclude those persons responsible for administering the Program from acquiring any Undisclosed Information during the conduct of the Program; and

    (b) will, prior to entering into the Program Agreement, (i) ensure that its systems are capable of adhering to, and performing in accordance with, the requirements of the Program, the Program Agreement and this Order, and (ii) provide all necessary training and take all necessary actions to ensure that the persons administering and executing the purchases under the Program are aware of, and understand the terms of, the Program Agreement and this Order.

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

IT IS ORDERED pursuant to section 6.1 of NI 62-104 that the Issuer be exempt from the Issuer Bid Requirements in respect of the purchase of Inventory Shares from TD pursuant to the Program, provided that:

    (a) at least two clear Trading Days prior to the commencement of the Program, the Issuer issues and files the Commencement Press Release;

    (b) all purchases of Common Shares under the Program are made on Canadian Markets by TDSI, and are:

        (i) made in accordance with the NCIB Rules applicable to the NCIB, as modified by paragraph 28 hereof;

(ii) taken into account by the Issuer when calculating the maximum annual aggregate limits that are imposed upon the NCIB in accordance with the TSX NCIB Rules, with those Common Shares purchased on Canadian Other Published Markets being taken into account by the Issuer when calculating the maximum aggregate limits that are imposed upon the Issuer in accordance with the Other Published Markets Exemption;

(iii) marked with such designation as would be required by the applicable marketplace and UMIR for trades made by an agent of the Issuer; and

(iv) monitored by the TD Entities on a continual basis for the purposes of ensuring compliance with the terms of this Order, the NCIB Rules, and applicable securities law;

(c) during the Program Term, (i) the Issuer does not purchase, directly or indirectly, any Common Shares (other than Inventory Shares purchased under the Program), (ii) no Common Shares are purchased on behalf of the Issuer by the Responsible Broker, and (iii) no Common Shares are acquired on behalf of the Issuer by the designated broker under the ASPP;

(d) the number of Inventory Shares transferred by TD to the Issuer for purchase under the Program in respect of a particular Trading Day is equal to the number of Common Shares purchased by TDSI on Canadian Markets under the Program in respect of the Trading Day;

(e) no hedging activity is engaged in by the TD Entities in connection with the conduct of the Program;

(f) at the time that the Program Agreement is entered into by the Filers and TDSI:

(i) the Common Shares are "highly-liquid securities", as that term is defined in section 1.1 of OSC Rule 48-501 and section 1.1 of UMIR; and

(ii) none of the Issuer, any member of the Equity Derivatives Group of TD, or any personnel of either of the TD Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, were aware of any Undisclosed Information;

(g) no purchase instructions in respect of the Program are given by the Issuer to TDSI at any time that the Issuer is aware of Undisclosed Information;

(h) the TD Entities maintain records of all purchases of Common Shares that are made by TDSI pursuant to the Program, which will be available to the Commission and IIROC upon request; and

(i) in addition to reporting its purchases of Common Shares under the Program to the TSX in accordance with the TSX NCIB Rules, immediately following the completion of the Program, the Issuer will: (i) report the total number of Common Shares acquired under the Program to the TSX and the Commission, and (ii) issue and file the Completion Press Release.

DATED at Toronto, Ontario, this 22nd day of December, 2017.

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

2.2.5 Aurora Cannabis Inc. et al. – ss. 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 22, 2017

ORDER
(Sections 104 and 127 of the *Securities Act*, RSO 1990, c S.5)

WHEREAS on December 20 and 21, 2017, the Ontario Securities Commission (the "**Commission**") held a hearing in conjunction with the Financial and Consumer Affairs Authority of Saskatchewan (the "**FCAAS**") in the following three Applications:

i) the Application filed by Aurora Cannabis Inc. ("**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 (the "**Shareholder Rights Plan**");

ii) 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, 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* ("**MI 61-101**"), 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 (the "**Aurora Offer**"); and

iii) 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 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;

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 application materials and written submissions filed by the parties;

With Reasons to follow;

IT IS ORDERED THAT:

1. Pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the "**Act**"), and in accordance with the guidance in National Policy 62-202 – *Take-Over Bids – Defensive Tactics*, all trading shall cease in respect of any securities issued, or that are proposed to be issued, in connection with the Shareholder Rights Plan;

2. pursuant to clause 104(1)(b) and paragraph 5 of subsection 127(1) of the Act, Aurora shall, on or before January 12, 2018:

    a. with respect to its news releases dated November 14, 2017, and November 20, 2017, relating to the Aurora Offer, and after making inquiries of Aurora's relevant agents, affiliates and advisors, amend those news releases as necessary so that they include the following information:

        i. the circumstances under which, and the means by which, Aurora became aware that the board of CanniMed would be meeting on November 13, 2017 to, among other things, consider for approval an arrangement agreement entered into between CanniMed and Newstrike Resources Limited, which information the Commission has determined would reasonably be expected to affect the decision of CanniMed's shareholders to accept or reject the Aurora Offer;

        ii. any other information that was:

            1. obtained directly or indirectly by Aurora from any person who is, or was at the relevant time, in a special relationship with CanniMed (by reference to the definition in subsection 76(5) of the Act); and

            2. material to Aurora in structuring, determining the timing of, delivering or implementing the Aurora Offer; and

        iii. any other information within Aurora's knowledge that would reasonably be expected to affect the decision of the security holders of CanniMed to accept or reject the offer made by the Aurora Offer;

    b. issue and file the amended news releases;

    c. amend the take-over bid circular issued by Aurora on November 24, 2017, in connection with the Aurora Offer, by means of a Notice of Change, and in the same manner as described above in subparagraph (2)(a) for the news releases; and

    d. distribute the Notice of Change to every person to whom the Aurora Offer circular was required to be sent, and in the manner required by Ontario securities law applicable to the filing and delivery of take-over bid circulars;

3. The exemptive relief sought in the Aurora Application regarding the requirements set forth in section 2.28.1 of NI 62-104 is denied;

4. The relief sought in the CanniMed Special Committee Application is denied;

5. The relief sought in the CanniMed Application is denied; and

6. Pursuant to clause 9(1)(b) of the *Statutory Powers Procedure Act*, RSO 1990, c S.22, and Rule 22(3) of Commission's *Rules of Procedure and Forms* (2017), 40 OSCB 8988, the following filed documents are confidential:

    a. In Exhibit 4, Tabs "10" and "11" of the Affidavit of John Knowles sworn December 15, 2017;

    b. In Exhibit 4, Tab "6" of the Affidavit of Jeffrey Fallows sworn December 15, 2017; and

    c. In Exhibit 5, Tabs "7" and "8" of the Affidavit of Richard Hoyt sworn December 14, 2017.

"D. Grant Vingoe"

"Timothy Moseley"

"Frances Kordyback"

2.2.6 Gaming Nation Inc. – s. 1(6) of the OBCA

Headnote

Applicant deemed to have ceased to be offering its securities to the public under the Business Corporations Act (Ontario).

Applicable Legislative Provisions

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 1(6).

IN THE MATTER OF
THE BUSINESS CORPORATIONS ACT,
R.S.O. 1990, c. B.16, AS AMENDED
(the "OBCA")

AND

IN THE MATTER OF
GAMING NATION INC.
(the "Applicant")

ORDER
(Subsection 1(6) of the OBCA)

UPON the application of the Applicant to the Ontario Securities Commission (the "**Commission**") for an order pursuant to subsection 1(6) of the OBCA to be deemed to have ceased to be offering its securities to the public;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is an "offering corporation" as that term is defined in subsection 1(1) of the OBCA, and has an authorized capital consisting of an unlimited number of common shares (the "**Shares**"). The Applicant has 42,685,193 issued and outstanding Shares.

2. The Applicant's registered and head office is located at 50 Minthorn Blvd., Suite 400, Thornhill, Ontario, Canada L3T 7X8.

3. On August 17, 2017, shareholders of the Applicant ("**Shareholders**") approved by special resolution a plan of arrangement pursuant to section 182 of the OBCA (the "**Arrangement**"). Approximately 100% of the votes cast by all Shareholders, and approximately 100% of the votes cast by Shareholders other than the Shareholders whose votes were required to be excluded for the purposes of "minority approval" under Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*, were voted in favour of the special resolution approving the Arrangement.

4. On August 22, 2017 a final court order of the Superior Court of Justice (Ontario) (Commercial List) was granted approving the Arrangement.

5. Pursuant to articles of arrangement dated November 28, 2017 (the "**Effective Date**"), the Arrangement became effective as of 12:01 a.m. on the Effective Date (the "**Effective Time**") which, among other things, resulted in the following:

   (a) OC Special Opportunities Fund, LP ("**Orange Capital**") acquired all of the issued and outstanding Shares not already owned directly or indirectly by it for consideration equivalent to CAD 0.95 per Share (the "**Consideration**");

   (b) each option to acquire a Share (each a "**Gaming Option**") outstanding immediately prior to the Effective Time was deemed to be assigned and transferred to the Applicant in exchange for a cash payment equal to the amount by which the Consideration exceeds the exercise price of such Gaming Option, less applicable withholdings, following which such Gaming Options were cancelled;

   (c) each purchase warrant to acquire a Share (each a "**Gaming Warrant**") outstanding immediately prior to the Effective Time was deemed to be assigned and transferred to Orange Capital in exchange for a cash payment equal to the amount by which the Consideration exceeds the exercise price of such Gaming Warrant, less applicable withholdings, following which such Gaming Warrants were cancelled; and

   (d) in exchange for Orange Capital acquiring 2,157,500 of the Shares (the "**Rollover Shares**") held by directors and/or members of management of the Applicant (the "**Rollover Shareholders**"), Orange Capital issued to each Rollover Shareholder such number or amount of partnership units and debt equivalent to the Consideration per Rollover Share.

6. As a result of the Arrangement, the Applicant became a wholly-owned subsidiary of Orange Capital.

7. The Shares were delisted from the TSX Venture Exchange effective as at close of trading on November 29, 2017.

8. Effective as of close of trading on November 29, 2017, no securities of the Applicant will be traded on a "marketplace" as defined in National Instrument 21-101 – *Marketplace Operation*.

9. On December 12, 2017, the Applicant was granted an order pursuant to subclause 1(10)(a)(ii) of the *Securities Act* (Ontario) that it is

not a reporting issuer in Ontario and is not a reporting issuer or the equivalent in any other jurisdiction of Canada in accordance with the simplified procedure set out in National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications*.

10. The Applicant has no intention to seek a public financing by way of an offering of securities.

11. The Applicant is not in default of securities legislation in any jurisdiction in Canada.

AND UPON the Commission being satisfied that to grant this order would not be prejudicial to the public interest;

IT IS ORDERED by the Commission, pursuant to subsection 1(6) of the OBCA, that the Applicant is deemed to have ceased to be offering its securities to the public.

DATED at Toronto on this 15th day of December, 2017.

"William Furlong"
Commissioner
Ontario Securities Commission

"Janet Leiper"
Commissioner
Ontario Securities Commission

2.2.7 NewCastle Gold Ltd.

Headnote

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

Applicable Legislative Provisions

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

December 28, 2017

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

AND

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

AND

IN THE MATTER OF
NEWCASTLE GOLD LTD.
(the Filer)

ORDER

Background

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

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

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

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

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

Representations

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

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

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

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and

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

Order

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

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

"Sonny Randhawa"
Deputy Director
Corporate Finance Branch

2.2.8 Money Gate Mortgage Investment Corporation et al. – s. 127(8)

IN THE MATTER OF
MONEY GATE MORTGAGE
INVESTMENT CORPORATION,
MONEY GATE CORP.,
MORTEZA KATEBIAN and
PAYAM KATEBIAN

Mark J. Sandler, Chair of the Panel

December 29, 2017

ORDER
(Subsection 127(8))

WHEREAS the Ontario Securities Commission held a hearing in relation to a motion by Staff of the Commission (**Staff**) for an order that paragraph 1 of the order issued April 27, 2017 in this matter (the **Temporary Order**) and extended until December 31, 2017, be extended until January 12, 2018;

ON READING the materials filed by Staff and on hearing the submissions of the representative for Staff; no one appearing for the respondents;

IT IS ORDERED THAT pursuant to subsection 127(8) of the *Securities Act*, RSO 1990, c S.5, paragraph 1 of the Temporary Order is extended to January 12, 2018.

"Mark J. Sandler"

2.3 Orders with Related Settlement Agreements

2.3.1 Assante Capital Management Ltd. and Assante Financial Management Ltd. – s. 127(1)

File No. 2017-72

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

Philip Anisman, Commissioner and Chair of the Panel
AnneMarie Ryan, Commissioner
Robert P. Hutchison, Commissioner

December 21, 2017

ORDER
Subsection 127(1) of the Securities Act, RSO 1990, c S.5

WHEREAS on December 21, 2017, the Ontario Securities Commission held a hearing at 20 Queen Street West, 17th Floor, Toronto, Ontario to consider an application made jointly by Staff of the Commission (**Staff**) and Assante Capital Management Ltd. and Assante Financial Management Ltd. (the **Assante Dealers**) for approval of a settlement agreement dated December 18, 2017 (the **Settlement Agreement**);

ON READING the Statement of Allegations dated December 18, 2017 and the Joint Application Record for a Settlement Hearing dated December 18, 2017, including the Settlement Agreement, in which the Assante Dealers undertake to

(a) pay compensation to eligible clients and former clients and report to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission, in accordance with a plan submitted by them to Staff,

(b) make a voluntary payment of $25,000 to reimburse the Commission for costs incurred or to be incurred by it, and

(c) make a further voluntary payment of $140,000 to be designated for allocation or use by the Commission in accordance with paragraph 3.4(2)(b)(i) or (ii) of the Act;

AND ON HEARING the submissions of counsel for the Assante Dealers and Staff, including that the voluntary payments of $25,000 for costs and $140,000 for designation by the Commission have been received by the Commission in accordance with the terms of the Settlement Agreement;

IT IS ORDERED THAT:

(a) the Settlement Agreement is approved; and

(b) the voluntary payment of $140,000 paid to the Commission is designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act.

“Philip Anisman”

“AnneMarie Ryan”

“Robert P. Hutchison”

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

AND

ASSANTE CAPITAL MANAGEMENT LTD. and
ASSANTE FINANCIAL MANAGEMENT LTD.

SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE COMMISSION and
ASSANTE CAPITAL MANAGEMENT LTD. and
ASSANTE FINANCIAL MANAGEMENT LTD.

PART I – INTRODUCTION

1. The Ontario Securities Commission (the "Commission") will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to subsections 127(1) and 127(2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), it is in the public interest for the Commission to make certain orders in respect of Assante Capital Management Ltd. ("ACML") and Assante Financial Management Ltd. ("AFML") (together, the "Assante Dealers").

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

3. AFML is a corporation incorporated pursuant to the laws of Ontario. AFML is a member of the Mutual Fund Dealers Association of Canada ("MFDA") and is registered with the Commission as a mutual fund dealer and an exempt market dealer. Each of the Assante Dealers is a subsidiary of Assante Wealth Management (Canada) Ltd. ("AWMCL"). AWMCL is a subsidiary of CI Investments Inc. ("CIII"), the manager of various mutual funds.

4. Commencing in March 2015, the Assante Dealers self-reported to Staff of the Commission ("Commission Staff") findings from a review of their internal practices and procedures (the "Internal Review") which commenced a process which led to the discovery and reporting of the matters described in Part III below. During Commission Staff's investigation of these matters, the Assante Dealers provided prompt, detailed and candid co-operation to Commission Staff.

5. As summarized at paragraph 11 below and more fully described in Part III below, it is Commission Staff's position that there were inadequacies in the Assante Dealers' systems of controls and supervision which formed part of their compliance systems which resulted 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, resulting in their indirectly paying excess fees, that were not detected or corrected by the Assante Dealers in a timely manner (the "MER Control and Supervision Inadequacy").

PART II – JOINT SETTLEMENT RECOMMENDATION

6. Commission Staff and the Assante Dealers have agreed to a settlement of the proceeding initiated in respect of the Assante Dealers by Notice of Hearing dated December 18, 2017 (the "Proceeding") on the basis of the terms and conditions set out in this settlement agreement (the "Settlement Agreement"). Commission Staff have consulted with IIROC Staff and MFDA Staff in relation to the underlying facts which are the subject matter of this Settlement Agreement.

7. Pursuant to this Settlement Agreement, Commission Staff agree to recommend to the Commission that the Proceeding be resolved and disposed of in accordance with the terms and conditions contained herein.

8. It is Commission Staff's position that:

   a. the statement of facts set out by Commission Staff in Part III below, which is based on an investigation carried out by Commission Staff following the self-reporting by the Assante Dealers, is supported by the evidence reviewed by Commission Staff and the conclusions contained in Part III are reasonable; and

   b. it is in the public interest for the Commission to approve this Settlement Agreement, having regard to the following considerations:

(i) Commission Staff's allegations are that 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;

(ii) Commission Staff do not allege, and have found no evidence of dishonest conduct by the Assante Dealers;

(iii) the Assante Dealers promptly self-reported findings from the Internal Review which commenced a process which led to the discovery and reporting of the MER Control and Supervision Inadequacy;

(iv) during the investigation of the MER Control and Supervision Inadequacy following the self-reporting by the Assante Dealers, the Assante Dealers provided prompt, detailed and candid cooperation to Commission Staff;

(v) in connection with the reporting by the Assante Dealers of the MER Control and Supervision Inadequacy, the Assante Dealers formulated an intention to pay appropriate compensation to clients and former clients harmed by the MER Control and Supervision Inadequacy (the "Affected Clients");

(vi) the Assante Dealers have agreed to pay appropriate compensation to the Affected Clients, in accordance with a plan submitted to Commission Staff and presented to the Commission (the "Compensation Plan"). As at the date of this Settlement Agreement, the Assante Dealers anticipate paying $3,825,910.60 (all dollar amounts are represented in Canadian dollars unless specified otherwise) and US$15,469.53 in the aggregate in respect of the MER Control and Supervision Inadequacy, of which more than $3,600,000 has already been paid to Affected Clients commencing in September 2017;

(vii) the Compensation Plan, prescribes, among other things:

A. the detailed methodology used for determining the compensation paid and to be paid to the Affected Clients, including an amount representing the time value of money in respect of any monies owed by the Assante Dealers to the Affected Clients;

B. the approach to be taken with regard to contacting and making payments to the Affected Clients;

C. the timing to complete the various steps included in the Compensation Plan;

D. a $25 *de minimis* exception (the aggregate of such de minimis amounts as at the date of this Settlement Agreement is approximately $1,934 as compared to $3,825,910.60 and US$15,469.53 in total compensation) which aggregate *de minimis* amount will be donated to United Way Financial Literacy Programs;

E. the approach to be taken to any remaining funds that are not paid out to Affected Clients after the steps included in the Compensation Plan have been fully implemented. In that regard, the Compensation Plan provides that if the Assante Dealers are not able to contact any former Affected Clients, notwithstanding the steps described in the Compensation Plan, each Assante Dealer will use reasonable efforts to locate any Affected Clients who are entitled to payment of $200 or more including directory searches, internet searches and the employment of third parties to assist in the search. If the Assante Dealer determines that a client is deceased but does not know the identity of the personal representative of the client's estate, and the estate is entitled to more than $400, the Assante Dealer shall make reasonable efforts to identify the personal representative of the deceased client. Subject to any applicable unclaimed property legislation, any amounts remaining undistributed to non-located clients by September 30, 2019 will be donated to United Way Financial Literacy Programs;

F. the resolution of client inquiries through an escalation process; and

G. regular reporting to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission ("OSC Manager") detailing the Assante Dealers' progress with respect to the implementation of the Compensation Plan, including with regard to the resolution of client inquiries;

(viii) at the request of Commission Staff, each of the Assante Dealers conducted an extensive review of its securities related activities to identify whether there were any other instances of inadequacy in their systems of controls and supervision leading to eligible clients not being advised that they qualified for a lower MER series of a mutual fund managed by CIII, resulting in their indirectly paying excess fees. Based on this review, the Assante Dealers have advised Commission Staff that there are no instances other than the MER Control and Supervision Inadequacy;

(ix) the Assante Dealers have taken corrective action by implementing CIII's preferred pricing program ("CIPP"), 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 at the individual or household level, without the need for the client to take steps to enrol in a specific program;

(x) the Assante Dealers have agreed to make a voluntary payment of $140,000 to the Commission to 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;

(xi) the Assante Dealers have agreed to make a further voluntary payment of $25,000 to reimburse the Commission for costs incurred or to be incurred;

(xii) the total agreed voluntary payment of $165,000 will be paid by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement, which payment is conditional upon approval of this Settlement Agreement by the Commission; and

(xiii) the terms of this Settlement Agreement are appropriate in all the circumstances, including mitigating factors and the principles of general and specific deterrence. Commission Staff are of the view that the voluntary payments referred to above in addition to the amounts to be paid as compensation to Affected Clients by the Assante Dealers will emphasize to the marketplace that Commission Staff expect registrants to have compliance systems with appropriate controls and supervision in place which:

A. provide reasonable assurance that registrants, and each individual acting on behalf of registrants, are complying with securities legislation, including the requirement to deal fairly with clients including, without limitation, with regard to fees; and

B. are reasonably likely to allow registrants to identify and correct non-compliance with securities legislation in a timely manner.

9. The Assante Dealers neither admit nor deny the accuracy of the facts or the conclusions of Commission Staff as set out in Part III of this Settlement Agreement.

10. The Assante Dealers agree to this Settlement Agreement and to the making of an order in the form attached as Schedule "A".

PART III – COMMISSION STAFF'S STATEMENT OF FACTS AND CONCLUSIONS

A. Overview

11. 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 a series of a particular CIII mutual fund (the "PIM Series") which had a lower MER as compared to such clients' investment in the standard series of the same fund (the "Standard Series").

12. This MER Control and Supervision Inadequacy continued undetected until 2015. After the publication of a no-contest settlement agreement entered into between Commission Staff with TD Waterhouse Private Investment Counsel Inc., TD Waterhouse Canada Inc. and TD Investment Services Inc. in November 2014, the Assante Dealers conducted the Internal Review. Commencing in March 2015, the Assante Dealers self-reported to Commission Staff the findings from

the Internal Review which commenced a process which led to the discovery and reporting of the MER Control and Supervision Inadequacy to Commission Staff.

13. As set out in greater detail below in the section entitled Mitigating Factors, the Assante Dealers have taken remedial steps to correct the MER Control and Supervision Inadequacy.

14. The Assante Dealers engaged an independent third party to develop the compensation calculation methodology and perform the compensation calculations in connection with the MER Control and Supervision Inadequacy.

15. The Assante Dealers substantially completed the process of compensating the Affected Clients in September 2017 and are engaged in the process of compensating the remaining Affected Clients.

B. The MER Control and Supervision Inadequacy

16. CIII, an affiliate of the Assante Dealers, manages a number of mutual funds that were available in the Standard Series and in the PIM Series (for those clients who met one of the required minimum investment thresholds for the PIM series). For these mutual funds, the sole difference between the Standard Series and the PIM Series was a lower MER in the PIM Series (the "MER Differential Funds"). The PIM Series was only available to clients who enrolled in the PIM Program.

17. The threshold to qualify for the PIM Program was $100,000 invested in a particular fund available for purchase in the PIM Series, or $250,000 invested in aggregate in funds available for purchase in the PIM Series.

18. The PIM Series of an MER Differential Fund had an MER that was approximately 10 to 51 basis points lower than the Standard Series of the same MER Differential Fund. The MER differences varied by MER Differential Fund.

19. The PIM Program was launched in August 2011 (the “PIM Launch Date”), and the PIM Series of the MER Differential Funds were launched at various times on and after the PIM Launch Date.

20. Commencing in March 2015, the Assante Dealers self-reported to Commission Staff the findings from the Internal Review which commenced a process which led to the discovery and reporting of the MER Control and Supervision Inadequacy to Commission Staff. Thereafter, the Assante Dealers engaged an independent third party to develop the compensation calculation methodology and to perform the calculations of the appropriate compensation to be paid to Affected Clients.

21. On May 1, 2017, CIII introduced CIPP, a new preferred pricing program which ensures that a lower MER is automatically applied without the need for the client to take steps to enrol in a specific program. CIPP provides standardized MER reductions as soon as client assets meet various asset thresholds at the individual or household level. Reclassification switches are automatically processed to reflect the appropriate pricing.

22. On May 5, 2017, the Assante Dealers capped the PIM Program and adopted CIPP (the “Cap Date”).

23. The Assante Dealers conducted a review of the MER Differential Funds to cover the period commencing on August 1, 2011 (the PIM Launch Date) and ending on May 5, 2017 (the Cap Date), and determined that certain clients of the Assante Dealers invested in an MER Differential Fund may not have been advised of their eligibility to enroll in the PIM Program in order to hold the lower MER PIM Series of the MER Differential Fund. Specifically:

    a. the Assante Dealers did not have adequate systems of internal controls and supervision in place to ensure that, after the inception date of the PIM Series of a fund such that it became an MER Differential Fund, or upon a purchase or transfer-in of an investment in an MER Differential Fund, a client’s holdings, whether alone or combined with existing holdings of the same or other MER Differential Funds, exceeded the minimum investment threshold required to qualify for the PIM Program, the client was advised consistently and in a timely manner of their eligibility to enroll in the PIM Program in order to hold the PIM Series of such MER Differential Funds; and

    b. the Assante Dealers’ internal controls failed to identify the MER Control and Supervision Inadequacy in a timely manner.

24. There are approximately 5,427 client accounts that held MER Differential Funds at some point during the period from the PIM Launch Date to the Cap Date and were eligible to enroll in the PIM Program and benefit from the lower MER associated with the PIM Series, but may not have been advised of their eligibility to do so and, in any, event did not do so.

25. In accordance with the Compensation Plan, in respect of those client accounts, the Assante Dealers have agreed to pay, and have paid or are in the process of paying, to each Affected Client:

    a. an amount representing the difference in the return that the Affected Client would have received on any unit held by the client of an MER Differential Fund had the client been invested in the PIM Series of that mutual fund in a timely manner upon becoming eligible to enroll in the PIM Program and hold the PIM Series for the entire period in which the Affected Client was so qualified (the "Difference in Return"); and

    b. an amount representing the time value of money in respect of the Difference in Return from the date of sale, conversion, transfer or disposition of any Standard Series units of an MER Differential Fund for any periods up to September 24, 2017, based on a simple interest rate of 5% per annum calculated monthly, except in respect of the money market funds where the rate is 1.2% per annum based upon an annual rate equal to the average returns on money market MER Differential Funds from the inception date of the PIM Series until the Cap Date (the "MER Foregone Investment Opportunity Cost").

26. On this basis, the Assante Dealers have determined that the total compensation to be paid to Affected Clients as a result of the MER Control and Supervision Inadequacy is $3,825,910.60 and US$15,469.53, inclusive of the MER Foregone Investment Opportunity Cost, where applicable, of which more than $3,600,000 has already been paid to Affected Clients commencing in September 2017.

C. Breaches of Ontario Securities Law

27. 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.

28. 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* (“NI 31-103”). In addition, the MER Control and Supervision Inadequacy was contrary to the public interest.

D. Mitigating Factors

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

30. The Assante Dealers promptly self-reported findings from the Internal Review which commenced a process which led to the discovery and reporting of the MER Control and Supervision Inadequacy.

31. During the investigation of the MER Control and Supervision Inadequacy following the self-reporting by the Assante Dealers, the Assante Dealers provided prompt, detailed and candid cooperation to Commission Staff.

32. In connection with the reporting by the Assante Dealers of the MER Control and Supervision Inadequacy, the Assante Dealers formulated an intention to pay appropriate compensation to clients and former clients harmed by the MER Control and Supervision Inadequacy, in accordance with the Compensation Plan. As at the date of this Settlement Agreement, the Assante Dealers anticipate paying $3,825,910.60 and US$15,469.53 in the aggregate in respect of the MER Control and Supervision Inadequacy, of which more than $3,600,000 has already been paid to Affected Clients.

33. The Compensation Plan prescribes, among other things:

    a. the detailed methodology used for determining the compensation paid and to be paid to the Affected Clients, including the time value of money owed by the Assante Dealers to the Affected Clients;

    b. the approach to be taken with regard to contacting and making payments to the Affected Clients;

    c. the timing to complete the various steps included in the Compensation Plan;

d. a $25 *de minimis* exception (the aggregate of such de minimis amounts as at the date of this Settlement Agreement is approximately $1,934 as compared to $3,825,910.60 and US$15,469.53 in total compensation), which aggregate *de minimis* amount will be donated to United Way Financial Literacy Programs;

e. the approach to be taken to any remaining funds that are not paid out to Affected Clients after the steps included in the Compensation Plan have been fully implemented. In that regard, the Compensation Plan provides that if the Assante Dealers are not able to contact any former Affected Clients, notwithstanding the steps described in the Compensation Plan, each Assante Dealer will use reasonable efforts to locate any Affected Clients who are entitled to payment of $200 or more including directory searches, internet searches and the employment of third parties to assist in the search. If the Assante Dealer determines that a client is deceased but does not know the identity of the personal representative of the client's estate, and the estate is entitled to more than $400, the Assante Dealer shall make reasonable efforts to identify the personal representative of the deceased client. Subject to any applicable unclaimed property legislation, any amounts remaining undistributed to non-located clients by September 30, 2019 will be donated to United Way Financial Literacy Programs;

f. the resolution of client inquiries through an escalation process; and

g. regular reporting to the OSC Manager detailing the Assante Dealers' progress with respect to the implementation of the Compensation Plan, including with regard to the resolution of client inquiries.

34. At the request of Commission Staff, each of the Assante Dealers conducted an extensive review of its securities related activities to identify whether there were any other instances of inadequacy in their systems of controls and supervision leading to eligible clients not being advised that they qualified for a lower MER series of a mutual fund managed by CIII, resulting in their indirectly paying excess fees. Based on this review, the Assante Dealers have advised Commission Staff that there are no instances other than the MER Control and Supervision Inadequacy.

35. The Assante Dealers have taken corrective action by implementing CIPP 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 at the individual or household level, without the need for the client to take steps to enrol in a specific program.

36. The Assante Dealers have agreed to make voluntary payments totalling $165,000 as described in paragraphs 8.b(x) and (xi) above.

37. The Assante Dealers will pay the total agreed voluntary payment amount of $165,000 by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement, which payment is conditional upon approval of this Settlement Agreement by the Commission.

38. The terms of settlement are appropriate in all the circumstances, including mitigating factors and the principles of general and specific deterrence. Commission Staff are of the view that the voluntary payments referred to above in addition to the amounts to be paid as compensation to Affected Clients by the Assante Dealers will emphasize to the marketplace that Commission Staff expect registrants to have compliance systems with appropriate controls and supervision in place which:

a. provide reasonable assurance that registrants, and each individual acting on behalf of registrants, are complying with securities legislation, including the requirement to deal fairly with clients including, without limitation, with regard to fees; and

b. are reasonably likely to allow registrants to identify and correct non-compliance with securities legislation in a timely manner.

E. The Assante Dealers' Undertaking

39. By signing this Settlement Agreement, the Assante Dealers undertake to:

a. pay compensation to Affected Clients in accordance with the Compensation Plan and to report to the OSC Manager in accordance with the Compensation Plan; and

b. make the voluntary payments referred to in paragraphs 8.b(x) and (xi) above

(the "Undertaking").

PART IV – TERMS OF SETTLEMENT

40. The Assante Dealers agree to the terms of settlement listed below and consent to the Order in substantially the form attached hereto, that provides that, pursuant to section 127 of the Act:

    a. the Settlement Agreement is approved; and

    b. the voluntary payment of $140,000 paid to the Commission is designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act.

41. The Assante Dealers agree to make the voluntary payments described in subparagraph 39.b by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement.

PART V – COMMISSION STAFF COMMITMENT

42. If the Commission approves this Settlement Agreement, Commission Staff will not commence any proceeding under Ontario securities law in relation to the Commission Staff's Statement of Facts and Conclusions set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 43 below and except with respect to paragraph 34 above, and nothing in this Settlement Agreement shall be interpreted as limiting Commission Staff's ability to commence proceedings against the Assante Dealers in relation to any control and supervision inadequacy leading to clients paying excess fees other than the MER Control and Supervision Inadequacy described herein.

43. If the Commission approves this Settlement Agreement and either of the Assante Dealers fails to comply with any of the terms of this Settlement Agreement, Commission Staff may bring proceedings under Ontario securities law against such non-compliant Assante Dealer. These proceedings may be based on, but are not limited to, the Commission Staff's Statement of Facts and Conclusions set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

PART VI – PROCEDURE FOR APPROVAL OF SETTLEMENT

44. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for December 21, 2017, or on another date agreed to by Commission Staff and the Assante Dealers, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.

45. Commission Staff and the Assante Dealers agree that this Settlement Agreement will form all of the evidence that will be submitted at the settlement hearing on the Assante Dealers' conduct, unless the parties agree that additional evidence should be submitted at the settlement hearing.

46. If the Commission approves this Settlement Agreement, the Assante Dealers agree to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

47. If the Commission approves this Settlement Agreement, the Assante Dealers will not make any public statement that is inconsistent with this Settlement Agreement or with any additional evidence submitted at the settlement hearing. In addition, the Assante Dealers agree that they will not make any public statement that there is no factual basis for this Settlement Agreement. Nothing in this paragraph affects the Assante Dealers' testimonial obligations or the right to take legal or factual positions in other investigations or legal proceedings in which the Commission and/or Commission Staff is not a party or in which any provincial or territorial securities regulatory authority in Canada and/or its staff is not a party ("Other Proceedings") or to make public statements in connection with Other Proceedings.

48. The Assante Dealers will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART VII – DISCLOSURE OF SETTLEMENT AGREEMENT

49. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

    a. this Settlement Agreement and all discussions and negotiations between Commission Staff and the Assante Dealers before the settlement hearing takes place will be without prejudice to Commission Staff and the Assante Dealers; and

b. Commission Staff and the Assante Dealers will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

50. The parties will keep the terms of this Settlement Agreement confidential until the commencement of the public hearing to obtain approval of this Settlement Agreement by the Commission. Any obligations of confidentiality shall terminate upon the commencement of the public settlement hearing. If, for whatever reason, the Commission does not approve this Settlement Agreement, the terms of this Settlement Agreement remain confidential indefinitely, unless Commission Staff and the Assante Dealers otherwise agree or if otherwise required by law.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

51. This agreement may be signed in one or more counterparts which, together, constitute a binding agreement.

52. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated this 18th day of December, 2017

Assante Capital Management Ltd.

"Sean Etherington"
Per: Sean Etherington, President

"Josip Bajic"
Per: Josip Bajic, Chief Compliance Officer

Assante Financial Management Ltd.

"Sean Etherington"
Per: Sean Etherington, President

"Josip Bajic"
Per: Josip Bajic, Chief Compliance Officer

Commission Staff

"Jeff Kehoe"
Jeff Kehoe
Director, Enforcement Branch
Ontario Securities Commission

SCHEDULE "A"

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

AND

ASSANTE CAPITAL MANAGEMENT LTD. and
ASSANTE FINANCIAL MANAGEMENT LTD.

ORDER
(Section 127)

WHEREAS on December 21, 2017, the Ontario Securities Commission held a hearing at 20 Queen Street West, 17th Floor, Toronto, Ontario to consider an application made jointly by Staff of the Commission (**Staff**) and Assante Capital Management Ltd. and Assante Financial Management Ltd. (the **Assante Dealers**) for approval of a settlement agreement dated December 18, 2017 (the **Settlement Agreement**);

ON READING the Statement of Allegations dated December 18, 2017 and the Joint Application Record for a Settlement Hearing dated December 18, 2017, including the Settlement Agreement, in which the Assante Dealers undertake to

(a) pay compensation to eligible clients and former clients and report to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission, in accordance with a plan submitted by them to Staff,

(b) make a voluntary payment of $25,000 to reimburse the Commission for costs incurred or to be incurred by it, and

(c) make a further voluntary payment of $140,000 to be designated for allocation or use by the Commission in accordance with paragraph 3.4(2)(b)(i) or (ii) of the Act;

AND ON HEARING the submissions of counsel for the Assante Dealers and Staff, including that the voluntary payments of $25,000 for costs and $140,000 for designation by the Commission have been received by the Commission in accordance with the terms of the Settlement Agreement;

IT IS HEREBY ORDERED THAT:

(a) the Settlement Agreement is approved; and

(b) the voluntary payment of $140,000 paid to the Commission is designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act.

DATED at Toronto, Ontario this _____ day of December, 2017

_____

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

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

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

REASONS FOR APPROVAL OF SETTLEMENT
(Section 127 of the Securities Act, RSO 1990, c S.5)

Citation: *Assante Capital Management Ltd. (Re)*, 2017 ONSEC 45
Date: 2017-12-21
File No. 2017-72

Hearing:	December 21, 2017	
Reasons:	December 21, 2017	
Panel:	Philip Anisman	Commissioner and Chair of the Panel
	AnneMarie Ryan	Commissioner
	Robert P. Hutchison	Commissioner
Appearances by:	Michelle Vaillancourt	For Staff of the Commission
	Matthew Scott Todd Prendergast	For Assante Capital Management Ltd. and Assante Financial Management Ltd.

REASONS FOR APPROVAL OF SETTLEMENT

The following reasons have been prepared for publication in the Ontario Securities Commission Bulletin, based on the reasons delivered orally in the hearing and approved by the panel, to provide a public record.

[1] This is the tenth no-contest settlement brought before the Ontario Securities Commission since it determined to permit such settlements in 2014.[1] It is the eighth relating to excessive fees charged to clients as a result of a registrant's inadequate control and supervisory procedures.

[2] The settlement agreement dated December 18, 2017 (the "Settlement Agreement") states that between August 1, 2011 and May 5, 2017, clients of Assante Capital Management Ltd. and Assante Financial Management Ltd. (the "Assante Dealers") who invested in proprietary mutual funds managed by the Assante Dealers' indirect parent corporation, CI Investments Inc. ("CII"), were charged a higher management expense ratio ("MER") than they were eligible to receive in an equivalent proprietary mutual fund for which they qualified because of inadequacies in the Assante Dealers' systems of controls and supervision (the "MER Systems Deficiency").[2]

[3] Following publication of the first such settlement in November, 2014,[3] the Assante Dealers conducted a review of their internal practices and procedures and reported their findings to staff of the Commission ("Staff"). This prompted an investigation by Staff, with which the Assante Dealers fully cooperated and which led to the discovery and reporting of the MER Systems Deficiency and to the Settlement Agreement between Staff and the Assante Dealers, approval of which is sought on this application.

[4] The Settlement Agreement states Staff's conclusion that certain clients of the Assante Dealers were not advised of their eligibility to invest in a mutual fund with a lower MER because the Assante Dealers failed to establish, maintain and apply control and supervisory procedures sufficient to ensure that the Assante Dealers and individuals employed

1 See OSC Staff Notice 15-702 – *Revised Credit for Cooperation Program* (2014), 37 OSCB 2583 ("Staff Notice 15-702").

2 Settlement Agreement, para. 5; the funds and the MER Systems Deficiency are described in paras. 16-24.

3 Settlement Agreement, para. 12; see *Re TD Waterhouse Private Investment Counsel Inc.* (2014), 37 OSCB 10742 (the "TD Settlement").

by them complied with securities laws, including their obligation to deal fairly with clients with regard to fees, and to identify and correct such non-compliance in a timely manner, which failure was contrary to section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103") and the public interest.[4]

[5] The Assante Dealers neither admit nor deny the accuracy of the facts and conclusions in the Settlement Agreement. Staff states that these facts and conclusions are true and recommends that the Commission approve the Settlement Agreement.[5]

[6] Because it involves two public interest determinations, approval of a no-contest settlement has been said to be difficult to obtain.[6] As with all settlements, the agreed sanctions must be within a reasonable range of appropriateness in light of the conduct described in the settlement agreement.[7] In addition, a no-contest settlement must satisfy the criteria outlined in Staff Notice 15-702.[8] The Settlement Agreement meets both standards and, taken as a whole, is fair and reasonable.[9]

[7] The panel has determined that approval of the Settlement Agreement with the Assante Dealers is in the public interest for the following reasons:

(a) Staff has not found, and did not allege, any dishonesty on the part of the Assante Dealers;[10]

(b) the Assante Dealers voluntarily undertook an internal review following the TD Settlement, promptly self-reported the deficiencies they discovered in this review and "provided prompt, detailed and candid cooperation" during Staff's investigation. At Staff's request, they also conducted an extensive additional review to discover any similar deficiencies concerning qualifications for a lower MER and excessive payment of fees by clients, and advised Staff there were none.[11] As a result, the Settlement Agreement appears to address all harm to clients with respect to such excessive fee payments;

(c) the Assante Dealers have engaged in significant remediation by implementing CII's preferred pricing program ("CIPP") in May, 2017, which ensures that clients automatically receive a lower MER as soon as they qualify for one, without any action having to be taken by an Assante adviser or the client;[12]

(d) the Assante Dealers agreed to "pay appropriate compensation" to clients and former clients who were harmed by the MER Systems Deficiency and have paid $3,600,000 to clients and former clients in accordance with a plan developed by an independent third party and described in the Settlement Agreement (the "Compensation Plan"), which compensation includes an amount representing the time value of monies owed to clients. Of the amount they anticipated paying, approximately $246,000 remains unpaid;[13]

(e) the Compensation Plan ensures that the Assante Dealers will not retain any benefit from the excess fees charged to clients and former clients. *De minimis* amounts of $25 or less payable to a client (totalling $1,934) and funds payable to clients who cannot be located after the search process described in the Settlement Agreement will be donated to United Way Financial Literacy Programs;[14]

(f) the Compensation Plan provides a process for resolving clients' inquiries and requires regular reporting to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission concerning implementation of the Compensation Plan, including client inquiries;[15]

(g) the Assante Dealers agreed to make voluntary payments to the Commission of $140,000 for allocation or use for investor protection purposes and $25,000 for its costs and they have paid these amounts;[16] and

4 Settlement Agreement, paras. 27-28.

5 Settlement Agreement, paras. 5, 8(a) and 9.

6 *Re BMO Nesbitt Burns Inc.* (2017), 40 OSCB 57, para. 16; *Re RBC Dominion Securities Inc.* (2017), 40 OSCB 5551, para. 13.

7 *Re Sentry Investments Inc.* (2017), 40 OSCB 3435, para. 6.

8 Staff Notice 15-702, paras. 16-17.

9 *Re Ernst & Young LLP* (2014), 37 OSCB 9227, para. 7.

10 Staff Notice 15-702, para. 20(a).

11 Settlement Agreement, paras. 8(b)(iii)-(iv) and (viii); Staff Notice 15-702, paras. 17(a) and (b).

12 Settlement Agreement, para. 8(b)(ix); Staff Notice 15-702, paras. 17(d) and (f).

13 Settlement Agreement, paras. 8(b)(v)-(vi) and 20; Staff Notice 15-702, paras. 17(c) and (e).

14 Settlement Agreement, para. 8(b)(vii).

15 Settlement Agreement, paras. 8(b)(vii)(F) and (G).

16 Settlement Agreement, paras. 8(b)(x)-(xii); Staff Notice 15-702, para. 17(e).

(h) finally, Staff's declaration that the facts and conclusions in the Settlement Agreement are true is an important element of a no-contest settlement, as stated in Staff Notice 15-702.[17] It provides an additional and necessary basis for concluding that approval of this Settlement Agreement is in the public interest.[18]

[8] The Compensation Plan does not form a part of the Settlement Agreement and has not been filed. As is apparent from the Settlement Agreement, it is satisfactory to Staff and was presented to the Commission in a confidential settlement conference before this panel to provide context to help the panel assess the reasonableness of the settlement.[19] The panel has accepted this confidential treatment of the Compensation Plan because the Settlement Agreement describes its substance and because the circumstances of this case are not sufficiently different to alter the process followed in earlier similar no-contest settlements on which the Assante Dealers presumably relied when entering into this Settlement Agreement. The panel emphasizes, however, that reliance should not be placed on this practice being accepted in other circumstances.

[9] As is well recognized, the Commission's disciplinary authority is protective. It is intended to protect investors and our capital markets by preventing conduct that is harmful to them.[20] The Settlement Agreement states that it reflects principles of specific and general deterrence; Staff's position is that the Assante Dealers' voluntary and compensatory payments emphasize Staff's expectation that registrants have systems with appropriate controls and supervision that reasonably ensure compliance with securities law, including dealing fairly with clients in all respects, and that enable timely identification and correction of non-compliance.[21]

[10] The panel agrees. The remedial program adopted by the Assante Dealers clearly accomplishes specific deterrence; they have conducted a review to ensure that there are no other instances of MER-related excessive fees paid by their clients and they have adopted the CIPP, which ensures that a similar MER Systems Deficiency cannot occur in the future.

[11] The Settlement Agreement also reflects general deterrence, as is demonstrated by the history of no-contest settlements relating to similar conduct by other registrants. As is said above, this is the eighth such no-contest settlement. It and the six that immediately preceded it resulted from reviews conducted by registrants who self-reported their findings following the TD Settlement, which was the first. This Settlement Agreement, like the other seven, is indicative of the benefits obtainable through no-contest settlements.

[12] For all of these reasons, the panel has decided to approve this settlement in the public interest and will issue an order substantially in the form of the order agreed to by Staff and the Assante Dealers and contained in the Appendix "A" to the Settlement Agreement.

Dated at Toronto this 21st day of December, 2017.

"Philip Anisman"

"AnneMarie Ryan"

"Robert P. Hutchison"

17 Staff Notice 15-702, para. 16(a).

18 See *Re Ernst & Young LLP* (2014), 37 OSCB 9227, para. 13; *Re RBC Dominion Securities Inc.* (2017), 40 OSCB 5551, para. 13.

19 Settlement Agreement, para. 8(b)(vi).

20 See *Securities Act*, R.S.O. 1990, c. S.5, s. 1.1.

21 Settlement Agreement, para. 8(b)(xiii).

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

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

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
EA Education Group Inc.	05 January 2017	22 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 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 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
Cannabis Growth Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 28, 2017
NP 11-202 Preliminary Receipt dated December 28, 2017
Offering Price and Description:
Series A, Series D and Series F Units
Underwriter(s) or Distributor(s):
Spartan Fund Management Inc.
Promoter(s):
Spartan Fund Management Inc.
Project #2713828

Issuer Name:
Redwood MLP & Infrastructure Income Fund
Redwood Resource Growth & Income Fund
Redwood Balanced Income Fund
Redwood Special Opportunities Fund
Redwood Global Opportunities Fund
Redwood Tactical Equity Fund
Redwood Money Market Fund
Redwood Global Balanced Income Fund
Redwood Tactical Credit Fund
Redwood Tactical Bond Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated December 22, 2017
Received on December 27, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Logiq Capital 2016
Project #2633183

Issuer Name:
Redwood Total Return Fund
Redwood High Income Fund
Redwood Global Resource Fund
Redwood Strategic Yield Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated December 22, 2017
Received on December 27, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Aston Hill Asset Management Inc.
Promoter(s):
Logiq Asset Management Ltd.
Project #2611300

Issuer Name:
Redwood Growth Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated December 22, 2017
Received on December 27, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Logiq Capital 2016
Project #2633187

Issuer Name:
BetaPro S&P 500 VIX Short-Term Futures 2x Daily Bull ETF
BetaPro S&P 500 VIX Short-Term Futures Daily Inverse ETF
BetaPro S&P 500 VIX Short-Term Futures ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated December 22, 2017
NP 11-202 Receipt dated December 27, 2017
Offering Price and Description:
Class A units @ net asset value
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2697878

Issuer Name:
Phillips, Hager & North Overseas Equity Pension Trust
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus and amendment #3 to AIF dated December 15, 2017
NP 11-202 Receipt dated December 27, 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
NP 11-202 Receipt dated December 27, 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:
PowerShares FTSE RAFI Global Small-Mid Fundamental ETF
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated December 21, 2017
NP 11-202 Receipt dated December 28, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2575425

Issuer Name:
BMO Aggregate Bond Index ETF
BMO China Equity Index ETF
BMO Corporate Bond Index ETF
BMO Discount Bond Index ETF
BMO Dow Jones Industrial Average Hedged to CAD Index ETF
BMO Emerging Markets Bond Hedged to CAD Index ETF
BMO Equal Weight Banks Index ETF
BMO Equal Weight Global Base Metals Hedged to CAD Index ETF
BMO Equal Weight Global Gold Index ETF
BMO Equal Weight Industrials Index ETF
BMO Equal Weight Oil & Gas Index ETF
BMO Equal Weight REITs Index ETF
BMO Equal Weight US Banks Hedged to CAD Index ETF
BMO Equal Weight US Banks Index ETF
BMO Equal Weight US Health Care Hedged to CAD Index ETF
BMO Equal Weight Utilities Index ETF
BMO Global Banks Hedged to CAD Index ETF
BMO Global Communications Index ETF
BMO Global Consumer Discretionary Hedged to CAD Index ETF
BMO Global Consumer Staples Hedged to CAD Index ETF
BMO Global Infrastructure Index ETF
BMO Global Insurance Hedged to CAD Index ETF
BMO Government Bond Index ETF
BMO High Yield US Corporate Bond Hedged to CAD Index ETF
BMO High Yield US Corporate Bond Index ETF
BMO India Equity Index ETF
BMO Junior Gas Index ETF
BMO Junior Gold Index ETF
BMO Junior Oil Index ETF
BMO Laddered Preferred Share Index ETF
BMO Long Corporate Bond Index ETF
BMO Long Federal Bond Index ETF
BMO Long Provincial Bond Index ETF
BMO Long-Term US Treasury Bond Index ETF
BMO Mid Corporate Bond Index ETF
BMO Mid Federal Bond Index ETF
BMO Mid Provincial Bond Index ETF
BMO Mid-Term US IG Corporate Bond Hedged to CAD Index ETF
BMO Mid-Term US IG Corporate Bond Index ETF
BMO Mid-Term US Treasury Bond Index ETF
BMO MSCI All Country World High Quality Index ETF
BMO MSCI Canada Value Index ETF
BMO MSCI EAFE Hedged to CAD Index ETF BMO MSCI EAFE Index ETF
BMO MSCI EAFE Value Index ETF
BMO MSCI Emerging Markets Index ETF
BMO MSCI Europe High Quality Hedged to CAD Index ETF
BMO MSCI USA High Quality Index ETF
BMO MSCI USA Value Index ETF
BMO Nasdaq 100 Equity Hedged to CAD Index ETF
BMO Real Return Bond Index ETF
BMO S&P 500 Hedged to CAD Index ETF
BMO S&P 500 Index ETF
BMO S&P/TSX Capped Composite Index ETF
BMO Shiller Select US Index ETF

BMO Short Corporate Bond Index ETF
BMO Short Federal Bond Index ETF
BMO Short Provincial Bond Index ETF
BMO Short-Term Bond Index ETF
BMO Short-Term US IG Corporate Bond Hedged to CAD Index ETF
BMO Short-Term US Treasury Bond Index ETF
BMO US Preferred Share Hedged to CAD Index ETF
BMO US Preferred Share Index ETF
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Long Form Prospectus dated December 19, 2017
NP 11-202 Preliminary Receipt dated December 20, 2017
Offering Price and Description:
CAD Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
BMO Asset Management Inc.
Project #2711761

Issuer Name:
BMO Canadian Dividend ETF
BMO Canadian High Dividend Covered Call ETF
BMO Covered Call Canadian Banks ETF
BMO Covered Call Dow Jones Industrial Average Hedged to CAD ETF
BMO Covered Call Utilities ETF
BMO Europe High Dividend Covered Call ETF
BMO Europe High Dividend Covered Call Hedged to CAD ETF
BMO Floating Rate High Yield ETF
BMO International Dividend ETF
BMO International Dividend Hedged to CAD ETF
BMO Low Volatility Canadian Equity ETF
BMO Low Volatility Emerging Markets Equity ETF
BMO Low Volatility International Equity ETF
BMO Low Volatility International Equity Hedged to CAD ETF
BMO Low Volatility US Equity ETF
BMO Low Volatility US Equity Hedged to CAD ETF
BMO Monthly Income ETF
BMO Ultra Short-Term Bond ETF
BMO US Dividend ETF
BMO US Dividend Hedged to CAD ETF
BMO US High Dividend Covered Call ETF
BMO US High Dividend Covered Call Hedged to CAD ETF
BMO US Put Write ETF
BMO US Put Write Hedged to CAD ETF
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Long Form Prospectus dated December 19, 2017
NP 11-202 Preliminary Receipt dated December 20, 2017
Offering Price and Description:
CAD Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
BMO ASSET MANAGEMENT INC.
Project #2711753

Issuer Name:
Harvest Banks & Buildings Income ETF
Harvest European Leaders Income ETF
Harvest Global Resource Leaders ETF
Harvest US Bank Leaders Income ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 18, 2017
NP 11-202 Preliminary Receipt dated December 20, 2017
Offering Price and Description:
Class A Units and Class U Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Harvest Portfolios Group Inc.
Project #2711618

Issuer Name:
Marquest Monthly Pay Fund
Marquest Monthly Pay Fund (Corporate Class)
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated December 20, 2017
Received on December 22, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2636257

Issuer Name:
NBI Multiple Asset Class Private Portfolio
NBI Equity Income Private Portfolio
NBI Canadian Equity Private Portfolio
NBI Canadian High Conviction Equity Private Portfolio
NBI North American Dividend Private Portfolio
NBI U.S. Equity Private Portfolio
NBI U.S. High Conviction Equity Private Portfolio
NBI International High Conviction Equity Private Portfolio
Principal Regulator – Quebec
Type and Date:
Amendment #4 to Final Simplified Prospectus dated December 21, 2017
Received on December 21, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
National Bank Investments Inc.
Promoter(s):
National Bank Investments Inc.
Project #2626325

Issuer Name:
PowerShares FTSE RAFI Global Small-Mid Fundamental ETF
PowerShares Global Shareholder Yield ETF
PowerShares Low Volatility Portfolio ETF
PowerShares Tactical Bond ETF
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated December 21, 2017
Received on December 21, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2575425

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 20, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
AGF Investments Inc.
Project #2596084

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
NP 11-202 Receipt dated December 20, 2017
Offering Price and Description:
Series A, Advisor Series, Series D, Series F and Series I units @ Net Asset Value
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:
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
NP 11-202 Receipt dated December 19, 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:
Federated Strategic Value U.S. Equity Dividend Fund
Principal Regulator – British Columbia
Type and Date:
Final Simplified Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 19, 2017
Offering Price and Description:
Series A and Series F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2691840

Issuer Name:
Fidelity Far East Fund
Fidelity Global Health Care Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 19, 2017
Offering Price and Description:
Series A, B, E1, E2, E3, E4, F, F5, F8, O, P1, P1T5, P2, P2T5, P3, P3T5, P4, S5, S8, T5 and T8 units @ Net Asset Value
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Fidelity Investments Canada Limited
Promoter(s):
N/A
Project #2675619

Issuer Name:
GC One Equity Portfolio
GC One Fixed Income Portfolio
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated December 19, 2017
NP 11-202 Receipt dated December 20, 2017
Offering Price and Description:
Series A units
Underwriter(s) or Distributor(s):
Worldsource Financial Management Inc.,
Worldsource Securities Inc.
Promoter(s):
Guardian Capital LP
Project #2697713

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
NP 11-202 Receipt dated December 21, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2609404

Issuer Name:
Lysander-18 Asset Management Canadian Equity Fund
Lysander-Canso Balanced Fund
Lysander-Canso Bond Fund
Lysander-Canso Broad Corporate Bond Fund
Lysander-Canso Corporate Value Bond Fund
Lysander-Canso Equity Fund
Lysander-Canso Short Term and Floating Rate Fund
Lysander-Canso U.S. Credit Fund
Lysander-Crusader Equity Income Fund
Lysander-Fulcra Corporate Securities Fund
Lysander-Roundtable Low Volatility Equity Fund
Lysander-Seamark Balanced Fund
Lysander-Seamark Total Equity Fund
Lysander-Slater Preferred Share Dividend Fund
Lysander-Triasima All Country Equity Fund
Lysander-Triasima Balanced Income Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated December 21, 2017
NP 11-202 Receipt dated December 21, 2017
Offering Price and Description:
Series A, Series F and Series O Units of all Funds and Series A5 and Series F5 Unit
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2698302

Issuer Name:
Redwood Behavioral Opportunities Fund (formerly, First Avenue Dividend Growers Class)
Redwood Emerging Markets Dividend Fund
Redwood Global Total Return Bond Portfolio (formerly Redwood Global Bond Portfolio)
Redwood Pension Class (formerly Redwood Energy Income Class)
Redwood U.S. Preferred Share Fund
Redwood Unconstrained Bond Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated December 21, 2017
NP 11-202 Receipt dated December 22, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Redwood Asset Management Inc.
Promoter(s):
Redwood Asset Management Inc.
Project #2690436

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:
Amendment to Final Simplified Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 22, 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:
Amendment to Final Simplified Prospectus dated December 15, 2017
NP 11-202 Receipt dated December 22, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Sun Life Global Investments (Canada) Inc .
Project #2559217

NON-INVESTMENT FUNDS

Issuer Name:
AIM2 Ventures Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary CPC Prospectus (TSX-V) dated
Received on December 22, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2713016

Issuer Name:
CUP Capital Corp.
Principal Regulator – Ontario
Type and Date:
Amendment dated December 15, 2017 to Preliminary Long Form Prospectus dated October 16, 2017
NP 11-202 Preliminary Receipt dated December 19, 2017
Offering Price and Description:
Minimum Offering: $3.0 million/4,687,500 Units
Maximum Offering: $10.0 million/15,625,000 Units
Offering Pirce: $0.64 per Unit
Over-Allotment Option (as defined herein)
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
–
Project #2678520

Issuer Name:
Permex Petroleum Corporation
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated
Received on December 22, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
–
Project #2713144

Issuer Name:
Royal Bank of Canada
Principal Regulator – Quebec
Type and Date:
Preliminary Shelf Prospectus dated December 20, 2017
NP 11-202 Preliminary Receipt dated December 21, 2017
Offering Price and Description:
$25,000,000,000.00
Senior Debt Securities (Unsubordinated Indebtedness)
Debt Securities (Subordinated Indebtedness)
First Preferred Shares
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2712209

Issuer Name:
Spectra7 Microsystems Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 20, 2017
NP 11-202 Preliminary Receipt dated December 20, 2017
Offering Price and Description:
$15,000,000.00
7% Convertible Debenture Units
(15,000 Units at a price of $1,000.00 per Unit)
Price: $1,000.00 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
–
Project #2709868

Issuer Name:
Trenchant Capital Corp.
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 21, 2017
NP 11-202 Preliminary Receipt dated December 21, 2017
Offering Price and Description:
Minimum Offering: $10,000,000.00
Maximum Offering: $20,000,000.00
8% Series B Secured Convertible Debentures
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Industrial Alliance Securities Inc.
Raymond James Ltd.
GMP Securities L.P.
PI Financial Corp.
Echelon Wealth Partners Inc.
Integral Wealth Securities Ltd.
Hampton Securities Limited
Mackie Research Capital Corporation
Promoter(s):
Eric Boehnke
Project #2712573

Issuer Name:
WeedMD Inc. (formerly Aumento Capital V Corporation)
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 20, 2017
NP 11-202 Preliminary Receipt dated December 20, 2017
Offering Price and Description:
$30,000,000.00 – 13,953,488 Units, Price: $2.15 per Unit
Underwriter(s) or Distributor(s):
Eight Capital
Mackie Research Capital Corporation
Haywood Securities Inc.
Promoter(s):
–
Project #2711792

Issuer Name:
Ag Growth International Inc.
Principal Regulator – Manitoba
Type and Date:
Final Short Form Prospectus dated December 19, 2017
NP 11-202 Receipt dated December 19, 2017
Offering Price and Description:
$75,000,000.00 – 4.50% Convertible Unsecured Subordinated Debentures
Price: $1,000 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:
Agnico Eagle Mines Limited
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated December 22, 2017
NP 11-202 Receipt dated December 22, 2017
Offering Price and Description:
Debt Securities
Common Shares
Warrants
US$500,000,000.00
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2696630

Issuer Name:
Aphria Inc. (formerly, Black Sparrow Capital Corp.)
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated December 22, 2017
NP 11-202 Receipt dated December 22, 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:
Atlantic Power Corporation
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated December 19, 2017
NP 11-202 Receipt dated December 20, 2017
Offering Price and Description:
US$250,000,000.00 – Common Shares, Debt Securities, Warrants, Subscription Receipts, Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2706869

Issuer Name:
CI Financial Corp.
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated December 22, 2017
NP 11-202 Receipt dated December 22, 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:
CUP Capital Corp.
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated December 21, 2017
NP 11-202 Receipt dated December 22, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
–
Project #2678520

Issuer Name:
Delta 9 Cannabis Inc.
Principal Regulator – Manitoba
Type and Date:
Final Short Form Prospectus dated December 20, 2017
NP 11-202 Receipt dated December 20, 2017
Offering Price and Description:
$20,007,000.00 – 7,410,000 Units
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:
Mogo Finance Technology Inc.
Principal Regulator – British Columbia
Type and Date:
Final Short Form Prospectus dated December 21, 2017
NP 11-202 Receipt dated December 21, 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:
Equitable Group Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 27, 2017
NP 11-202 Preliminary Receipt dated December 27, 2017
Offering Price and Description:
$500,000,000.00 – Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Warrants, Share Purchase Contracts, Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2713454

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	Clairwood Capital Management Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 18, 2017
Consent to Suspension (Pending Surrender)	Acasta Capital Inc.	Exempt Market Dealer	December 20, 2017
Consent to Suspension (Pending Surrender)	Burlington Capital Management Ltd.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 21, 2017
Voluntary Surrender	Q1 Capital Partners Inc.	Exempt Market Dealer	December 21, 2017
Consent to Suspension (Pending Surrender)	Liberty House Asset Management Inc.	Exempt Market Dealer, Investment Fund Manager and Portfolio Manager	December 21, 2017
Consent to Suspension (Pending Surrender)	Qubd Capital Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 21, 2017
Suspension (Non-Renewal)	Qubd Capital Inc.	Commodity Trading Manager	January 1, 2018
New Registration	Cephei Capital Management (Hong Kong) Limited	Restricted Portfolio Manager	December 22, 2017
Consent to Suspension (Pending Surrender)	RCM Partners Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 22, 2017

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 MFDA – Housekeeping Amendments to MFDA Rule 5.3 (Client Reporting) and MFDA Policy No. 7 (Performance Reporting) – Notice of Commission Deemed Approval

NOTICE OF COMMISSION DEEMED APPROVAL

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

HOUSEKEEPING AMENDMENTS TO MFDA RULE 5.3 (CLIENT REPORTING) AND MFDA POLICY NO. 7 (PERFORMANCE REPORTING)

The Ontario Securities Commission did not object to the classification of the MFDA's proposed housekeeping amendments to specific sections of MFDA Rule 5.3 and MFDA Policy No. 7. As a result, the proposed housekeeping amendments are deemed to be approved and are effective on a date to be subsequently determined by the MFDA.

In addition, the British Columbia Securities Commission, the Alberta Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Financial and Consumer Services Commission of New Brunswick, the Manitoba Securities Commission, the Nova Scotia Securities Commission, and the Prince Edward Island Office of the Superintendent of Securities did not object to the amendments.

A copy of the MFDA's Notice and the text of the approved amendments can be found at http://www.osc.gov.on.ca.

13.2 Marketplaces

13.2.1 Nasdaq CXC Limited and Ensoleillement Inc. – Application for Recognition as Exchanges – Notice of Commission Recognition

NASDAQ CXC LIMITED AND
ENSOLEILLEMENT INC.

APPLICATION FOR RECOGNITION AS EXCHANGES

NOTICE OF COMMISSION RECOGNITION

On December 21, 2017, the Ontario Securities Commission recognized, under subsection 21(2) of the *Securities Act* (Ontario), Nasdaq CXC Limited (Nasdaq Canada) and Ensoleillement Inc. (CXCH) as exchanges. The Commission's recognition of Nasdaq Canada and CXCH will take effect on March 1, 2018.

Notice of the application by Nasdaq Canada and CXCH for recognition, together with proposed terms and conditions of recognition, was published for comment in the Commission's Bulletin on October 12, 2017 at (2017), 40 OSCB 8431.

The Commission received two comments in response to the Notice. A summary of the comments received and the responses to the comments, prepared by Nasdaq Canada, is published together with this notice.

Staff is also publishing with this notice the terms and conditions applicable to both Nasdaq Canada and CXCH, together with the terms and conditions applicable to Nasdaq, Inc. and the significant shareholders of Nasdaq, Inc. Minor, non-substantive changes have been made to the terms and conditions from the version published for comment.

Nasdaq Canada has also proposed a GEF Facility, to be introduced once the recognition of Nasdaq Canada and CXCH as exchanges takes effect. This GEF Facility remains under regulatory review.

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

AND

IN THE MATTER OF
ENSOLEILLEMENT INC. AND
NASDAQ CXC LIMITED

AND

IN THE MATTER OF
NASDAQ, INC.

ORDER
(Section 21 of the Act)

WHEREAS Ensoleillement Inc. (CXCH) and Nasdaq CXC Limited (Nasdaq Canada) (collectively, the Applicants) have filed an application requesting recognition of CXCH and Nasdaq Canada as exchanges pursuant to section 21 of the Act (Application);

AND WHEREAS at the time of granting this order, CXCH is the sole shareholder of Nasdaq Canada, and Nasdaq, Inc. (Nasdaq) is the sole shareholder of CXCH;

AND WHEREAS Nasdaq Canada operates Nasdaq CXC, Nasdaq CX2 and Nasdaq CXD that are facilities of the exchange that trade Canadian exchange-traded securities;

AND WHEREAS on or about the effective date of this order Nasdaq Canada will continue operations as an exchange under the terms and conditions of this order;

AND WHEREAS the Commission has received certain representations and undertakings from the Applicants in connection with the Application;

AND WHEREAS the Commission considers the proper operation of CXCH and Nasdaq Canada as essential to investor protection and maintaining a fair and efficient capital market, and therefore requires that any conflicts of interest in the operation of CXCH and Nasdaq Canada be dealt with appropriately, the fairness and efficiency of the market not be impaired by any anti-competitive activity, and that systemic risks are monitored and controlled;

AND WHEREAS the Applicants represent that CXCH and Nasdaq Canada satisfy the criteria for recognition as an exchange in Schedule 1 of this order;

AND WHEREAS the Commission has determined that it is in the public interest to recognize each of CXCH and Nasdaq Canada as an exchange pursuant to section 21 of the Act;

AND WHEREAS CXCH, Nasdaq Canada and Nasdaq have agreed to the applicable terms and conditions set out in Schedule 2 to Schedule 4 to the Order;

IT IS ORDERED that:

(a) pursuant to section 21 of the Act, CXCH is recognized as an exchange, and

(b) pursuant to section 21 of the Act, Nasdaq Canada is recognized as an exchange,

provided that the Applicants and Nasdaq comply with the terms and conditions set out in Schedule 2, 3 and Schedule 4 to the Order, as applicable.

Dated this 21st day of December, 2017, to take effect March 1, 2018.

"D. Grant Vingoe"

"Tim Moseley"

SCHEDULE 1

CRITERIA FOR RECOGNITION

PART 1 COMPLIANCE WITH NI 21-101 AND NI 23-101

1.1 Compliance with NI 21-101 and NI 23-101

The exchange complies with the requirements set out in National Instrument 21-101 *Marketplace Operation* (NI 21-101) and in National Instrument 23-101 *Trading Rules*, each as amended from time to time, which include requirements relating to:

(a) access;

(b) marketplace operations;

(c) exchange rules, policies and other similar instruments;

(d) order and trade transparency;

(e) transparency of marketplace operations;

(f) record keeping;

(g) marketplace systems and business continuity planning;

(h) confidentiality of information;

(i) outsourcing;

(j) clearing and settlement;

(k) fair and orderly markets;

(l) the management of conflicts of interest; and

(m) filing of financial statements.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

(a) effective oversight of the exchange;

(b) that business and regulatory decisions are in keeping with the exchange's public interest mandate;

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

  (i) appropriate representation of independent directors, and

  (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange;

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest; and

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 **Fitness**

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person.

PART 3 ACCESS

3.1 **Fair Access**

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure participants are appropriately registered under Ontario securities laws, or exempted from these requirements.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

PART 4 REGULATION OF PARTICIPANTS ON THE EXCHANGE

4.1 **Regulation**

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 5 RULES AND RULEMAKING

5.1 **Rules and Rulemaking**

(a) The exchange has rules, policies, and other similar instruments (Rules) that are designed to appropriately govern and regulate the operations and activities of participants.

(b) In addition to meeting the requirements of NI 21-101 relating to market operations and exchange rules, policies and other similar instruments as referred to in paragraphs 1.1(b) and (c) of this Schedule, respectively, the Rules are also designed to

(i) ensure a fair and orderly market; and

(ii) provide a framework for disciplinary and enforcement actions.

PART 6 DUE PROCESS

6.1 **Due Process**

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for and provides for appeals or reviews of its decisions.

PART 7 CLEARING AND SETTLEMENT

7.1 **Clearing and Settlement**

The exchange has appropriate arrangements for the clearing and settlement of trades.

PART 8 SYSTEMS AND TECHNOLOGY

8.1 **Information Technology Risk Management Procedures**

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 9 FINANCIAL VIABILITY

9.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 10 FEES

10.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and are consistent with the requirements in Ontario securities laws, including those requirements listed in paragraphs 1.1(a) and (e) of this Schedule.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 11 INFORMATION SHARING AND REGULATORY COOPERATION

11.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, recognized self-regulatory organizations, other recognized or exempt exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

SCHEDULE 2

TERMS AND CONDITIONS APPLICABLE TO NASDAQ CANADA

1. **Definitions and Interpretation**

(a) For the purposes of this Schedule:

"accounting principles" means accounting principles as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

"Nasdaq Canada dealer" means a dealer that is also a significant shareholder;

"Nasdaq Canada marketplace participant" means a marketplace participant of Nasdaq Canada;

"affiliated entity" has the meaning ascribed to it in section 1.3 of National Instrument 21-101 *Marketplace Operation*;

"associate" has the meaning ascribed to it in subsection 1(1) of the Act;

"Board" means the board of directors of CXCH or Nasdaq Canada, as the context requires;

"criteria for recognition" means all the criteria for recognition set out in Schedule 1 to the Order;

"Competitor" means a person whose consolidated business, operations or disclosed business plans are in competition, to a significant extent, with the trading functions, market data services or other material lines of business of Nasdaq Canada or its affiliated entities;

"dealer" means "investment dealer", as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registration Obligations*;

"IIROC" means the Investment Industry Regulatory Organization of Canada;

"marketplace" has the meaning ascribed to it in subsection 1(1) of the Act;

"marketplace participant" has the meaning ascribed to it in section 1.1 of NI 21-101;

"Nominating Committee" means the committee established by CXCH pursuant to section 30 of Schedule 3;

"officer" has the meaning ascribed to it in subsection 1(1) of the Act;

"Regulatory Oversight Committee" means the committee established by Nasdaq Canada pursuant to section 7 of this Schedule;

"Rule" means a rule, policy, or other similar instrument of Nasdaq Canada;

"significant shareholder" means a person or company that beneficially owns or controls directly more than 5% of any class or series of voting shares of Nasdaq.

"unaudited consolidated financial statements" means financial statements that are prepared in the same manner as audited consolidated financial statements except that they are not audited; and

"unaudited non-consolidated financial statements" means financial statements that are prepared in the same manner as audited consolidated financial statements, except that

(i) they are not audited; and

(ii) investments in subsidiary entities, jointly controlled entities and associates are accounted for as specified for separate financial statements in International Accounting Standard 27 Separate Financial Statements.

(b) For the purposes of this Schedule, an individual is independent if the individual is "independent" within the meaning of section 1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:

(i) is a partner, officer, director or employee of a Nasdaq Canada marketplace participant, or of an affiliated entity of a Nasdaq Canada marketplace participant, who is responsible for or is actively engaged in the day- to-day operations or activities of that Nasdaq Canada marketplace participant;

(ii) is an officer or an employee of CXCH or any of its affiliated entities;

(iii) is a partner, officer or employee of Nasdaq, Inc. or an associate of that partner, officer or employee;

(iv) is a director of Nasdaq or an associate of that director;

(v) is a person who owns or controls, or is the officer or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of CXCH;

(vi) is a director of a person or company that beneficially owns or controls, directly or indirectly, more than 5% of any class or series of voting shares of Nasdaq; or

(vii) has any relationship with Nasdaq or a person or company that owns or controls, directly or indirectly, more than 5% of the shares of CXCH, that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of CXCH or Nasdaq Canada.

(c) For the purposes of paragraph (b), the Nominating Committee may waive the restrictions set out in subparagraphs (b)(iv) and (b)(vi) provided that:

(i) the individual being considered does not have, and has not had, any relationship with Nasdaq, Inc. that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgement as a director of Nasdaq Canada or CXCH;

(ii) Nasdaq Canada publicly discloses the use of the waiver with reasons why the particular candidate was selected;

(iii) Nasdaq Canada provides advance notice to the Commission, at least 15 business days before the public disclosure in sub-paragraph (c)(ii) is made, and

(iv) the Commission does not object within 15 business days of its receipt of the notice provided under sub-paragraph (c)(iii) above.

2. **Public Interest Responsibilities**

(a) Nasdaq Canada shall conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the Board shall expressly include regulatory and public interest responsibilities of Nasdaq Canada.

3. **Share Ownership Restrictions**

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert shall beneficially own or exercise control or direction over more than 10% or more than 50% respectively of any class or series of voting shares of Nasdaq Canada.

(b) The articles of Nasdaq Canada shall contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

4. **Recognition Criteria**

Nasdaq Canada shall continue to meet the criteria for recognition set out in Schedule 1 to the Order.

5. **Fitness**

In order to ensure that Nasdaq Canada operates with integrity and in the public interest, Nasdaq Canada will take reasonable steps to ensure that each person or company that is a director or officer of Nasdaq Canada, is a fit and proper person and the past conduct of each person or company that is a director or officer of Nasdaq Canada affords reasonable grounds for belief that the business of Nasdaq Canada will be conducted with integrity. Each director and officer of Nasdaq Canada must be a fit and proper person.

6. **Board of Directors**

(a) Nasdaq Canada shall ensure that at least 50% of its Board members are independent.

(b) The Chair of the Board shall be independent.

(c) In the event that Nasdaq Canada fails to meet the requirement in paragraph (a) of this section, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure.

(d) Nasdaq Canada shall ensure that its Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, at least 50% of whom shall be independent directors.

7. **Regulatory Oversight Committee**

(a) Nasdaq Canada shall establish and maintain a Regulatory Oversight Committee that, at a minimum:

(i) is made up of at least three directors, a majority of whom shall be independent;

(ii) reviews and decides, or makes recommendations to the Board, on proposed regulations and rules that must be submitted to the Commission for review and approval under Schedule 5 *Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto* of this Order;

(iii) considers real or perceived conflicts of interest that may arise, including but not limited to the following contexts:

(A) ownership interests in CXCH by any Nasdaq Canada marketplace participant with representation on the Board of CXCH or the Board of Nasdaq Canada,

(B) significant changes in ownership of Nasdaq Canada and CXCH, and

(C) the profit-making objective and the public interest responsibilities of Nasdaq Canada, including general oversight of the management of the regulatory and public interest responsibilities of Nasdaq Canada.

(iv) oversees the establishment of mechanisms to avoid and appropriately manage conflicts of interest or potential conflicts of interest, perceived or real, including any policies and procedures that are developed by Nasdaq Canada and CXCH, including those that are required to be established pursuant to the Schedules of the Order;

(v) monitors the operation of mechanisms that deal with conflicts of interest, including oversight of reporting of conflicts of interest by Nasdaq Canada and CXCH;

(vi) reviews regularly, and at least annually, the effectiveness of the policies and procedures regarding conflicts of interest;

(vii) annually prepares a written report examining the avoidance and management of conflicts of interest, the mechanisms used and the effectiveness of those mechanisms and provides the report to the Board promptly, and to the Commission within 30 days of providing it to its Board;

(viii) reports in writing directly to the Commission on any matter that the Regulatory Oversight Committee deems appropriate or that is required by the Commission without first requiring Board approval for such reporting;

(ix) has a requirement that the quorum consist of a majority of the Regulatory Oversight Committee members, a majority of whom shall be independent.

(b) The mandate of the Regulatory Oversight Committee shall be publicly available on the website of Nasdaq Canada.

(c) The Regulatory Oversight Committee shall provide to the Commission meeting materials provided to the Regulatory Oversight Committee members in conjunction with each meeting, within 30 days after any meeting it held, and will include a list of the matters considered and a detailed summary of the Regulatory Oversight Committee's considerations, how those matters were addressed and any other information required by the Commission.

(d) The Regulatory Oversight Committee shall provide such information as may be required by the Commission from time to time.

8. **Conflicts of Interest and Confidentiality Procedures**

(a) Nasdaq Canada shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from the operation of the marketplace or the services it provides including, but not limited to, the following:

(A) conflicts of interest or potential conflicts of interest that arise from the involvement of any partner, director, officer or employee of a significant shareholder in the management or oversight of the exchange operations or regulation functions of Nasdaq Canada and the services or products it provides;

(B) conflicts of interest or potential conflicts of interest that arise from any interactions between Nasdaq Canada and a significant shareholder where Nasdaq Canada may be exercising discretion that involves or affects the significant shareholder either directly or indirectly, and

(C) conflicts of interest or potential conflicts of interest that arise between the regulation functions and the business activities of Nasdaq Canada; and

(ii) require that confidential information regarding marketplace operations, regulation functions, or a Nasdaq Canada marketplace participant that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of marketplace operations or regulation functions of Nasdaq Canada:

(A) be kept separate and confidential from the business or other operations of the significant shareholder and its affiliated entities, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to the significant shareholder or its affiliated entities.

(b) The policies established in accordance with paragraph 8(a) shall be made publicly available on the website of Nasdaq Canada.

(c) Nasdaq Canada shall regularly review compliance with the policies and procedures established in accordance with paragraph 8(a) and shall document each review, and any deficiencies, and how those deficiencies were remedied. A report detailing review(s) conducted shall be provided to the Commission on an annual basis.

9. **Access**

Nasdaq Canada's requirements shall provide access to the facilities of Nasdaq Canada only to properly registered investment dealers that are members of IIROC and satisfy reasonable access requirements established by Nasdaq Canada.

10. **Regulation of Nasdaq Canada Marketplace Participants**

(a) Nasdaq Canada shall establish, maintain and require compliance with policies and procedures that effectively monitor and enforce the Rules against Nasdaq Canada marketplace participants, either directly or indirectly through a regulation services provider.

(b) Nasdaq Canada has retained and shall continue to retain IIROC as a regulation services provider to provide, as agent for Nasdaq Canada, certain regulation services that have been approved by the Commission. Nasdaq Canada shall obtain approval of the Commission before amending the listed services provided by IIROC. Nasdaq Canada shall

annually provide the Commission with a list of the regulation functions performed by Nasdaq Canada and the regulation functions performed by IIROC.

(c) Nasdaq Canada shall perform all other regulation functions not performed by IIROC, and shall maintain adequate staffing, systems and other resources in support of those functions. Nasdaq Canada shall obtain prior Commission approval before outsourcing such regulation functions to any party, including affiliated entities or associates of Nasdaq Canada.

(d) Nasdaq Canada shall notify the Commission of any violations of Ontario securities law of which it becomes aware in the ordinary course of its business or otherwise.

11. **Rules, Rulemaking and Form 21-101F1**

Nasdaq Canada shall comply with the process for review and approval of Rules and the information contained in Form 21-101F1 and the exhibits thereto, as set out in Schedule 5, as amended from time to time.

12. **Due Process**

(a) Nasdaq Canada shall ensure that the requirements of Nasdaq Canada relating to access to the trading facilities of Nasdaq Canada, the imposition of limitations or conditions on access, and denial of access are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of a record, the giving of reasons and the provisions of appeals.

13. **Fees, Fee Models And Incentives**

(a) Nasdaq Canada shall not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders that is conditional upon:

(A) the requirement to have Nasdaq Canada be set as the default or first marketplace a marketplace participant routes orders to, or

(B) the router of Nasdaq Canada being used as the marketplace participant's primary order router.

(b) Except with the prior approval of the Commission, Nasdaq Canada shall not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by Nasdaq Canada or Nasdaq or any affiliated entity, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies.

(c) Except with the prior approval of the Commission, Nasdaq Canada shall not require another person or company to purchase or otherwise obtain products or services from Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders as a condition of Nasdaq Canada supplying or continuing to supply a product or service.

(d) If the Commission considers that it would be in the public interest, the Commission may require Nasdaq Canada to submit for approval by the Commission a fee, fee model or incentive that has previously been filed with and/or approved by the Commission.

(e) Where the Commission decides not to approve the fee, fee model or incentive submitted under paragraph (d), any previous approval for the fee, fee model or incentive shall be revoked, if applicable, and Nasdaq Canada shall no longer be permitted to offer the fee, fee model or incentive.

(f) Any fee, fee model or incentive, or amendment thereto, shall be filed in accordance with the Rule and Form 21-101F1 Filing Protocol attached as Schedule 5.

14. **Order Routing**

Nasdaq Canada shall not support, encourage or incent, either through fee incentives or otherwise, Nasdaq Canada marketplace participants, Nasdaq affiliated entities or significant shareholders to coordinate the routing of their orders to Nasdaq Canada.

15. **Integration of Any Business or Corporate Functions**

Nasdaq Canada shall obtain the prior approval of the Commission before implementing any significant integration, combination or reorganization of any businesses, operations or corporate functions relating to trading, including marketplace operations, having an impact on the operations of, the services offered by, or the manner in which services are performed by, Nasdaq Canada or CXCH, between Nasdaq Canada and its affiliated entities.

16. **Financial Reporting**

(a) Within 90 days of its financial year end, Nasdaq Canada shall deliver to the Commission audited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial year.

(b) Within 60 days of each quarter end, Nasdaq Canada shall deliver to the Commission unaudited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial quarter.

(c) Nasdaq Canada shall deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

17. **Financial Viability Monitoring And Reporting**

(a) Nasdaq Canada shall calculate the following financial ratios monthly:

(i) a current ratio, being the ratio of current assets to current liabilities;

(ii) a debt to cash flow ratio, being the ratio of total debt (including any line of credit draw downs, and the current and long-term portions of any loans, but excluding accounts payable, accrued expenses and other liabilities) to EBITDA (earnings before interest, taxes, stock-based compensation, depreciation and amortization) for the most recent 12 months; and

(iii) a financial leverage ratio, being the ratio of total assets to shareholders' equity,

in each case following the same accounting principles as those used for the unaudited non-consolidated financial statements of Nasdaq Canada.

(b) Nasdaq Canada shall report quarterly in writing to the Commission, along with the financial statements required to be delivered pursuant to this Schedule, the monthly calculations for the previous quarter of the financial ratios as required to be calculated under paragraph (a).

(c) If Nasdaq Canada determines that it does not have, or anticipates that, in the next twelve months, it will not have:

(i) a current ratio of greater than or equal to 1.1/1,

(ii) a debt to cash flow ratio of less than or equal to 4.0/1, or

(iii) a financial leverage ratio of less than or equal to 4.0/1,

it will immediately notify Commission staff of the above ratio(s) that it is not maintaining, the reasons, along with an estimate of the length of time before the ratio(s) will be met.

(d) Upon receipt of a notification made by Nasdaq Canada under paragraph (c), the Commission may, as determined appropriate, impose any of the terms and conditions set out in paragraph (e) below.

(e) If Nasdaq Canada's current ratio, debt to cash flow ratio or financial leverage ratio falls below the levels outlined in subparagraphs 17(c)(i), 177 (c)(ii) and 17(c)(iii) above for a period of more than three months, Nasdaq Canada will:

(i) immediately deliver a letter advising the Commission staff of the reasons for the continued ratio deficiencies and the steps being taken to rectify the situation;

(ii) deliver to Commission staff, on a monthly basis, within 30 days of the end of each month:

(A) unaudited monthly financial statements and a status update on any pending capital raising transaction(s) including the amount, terms and name(s) of individuals/entities that have committed to providing funding and their commitment,

(B) a comparison of the monthly revenues and expenses incurred by Nasdaq Canada against the projected monthly revenues and expenses included in Nasdaq Canada's most recently updated budget for that fiscal year,

(C) for each revenue item whose actual amount was significantly lower than its projected amount, and for each expense item whose actual amount was significantly higher than its projected amount, the reasons for the variance, and

(D) a calculation of the current ratio, debt to cash flow ratio and financial leverage ratio for the month;

(iii) prior to making any type of payment to any director, officer, affiliated entity or shareholder that is in excess of the amount included in the most recent annual financial budget delivered to Commission staff, demonstrate to the satisfaction of the Commission staff that it will have sufficient financial resources to continue its operations after the payment; and

(iv) adhere to any additional terms and conditions imposed by the Commission or its staff, as determined appropriate, on Nasdaq Canada,

until such time as Nasdaq Canada has maintained each of its current ratio, debt to cash flow ratio and financial leverage ratio at the levels set out in subparagraphs 17(c)(i), 17(c)(ii) and 17(c)(iii) for a period of at least 6 consecutive months.

18. **Outsourcing**

Nasdaq Canada shall obtain prior Commission approval before entering into or amending any outsourcing arrangements related to any of its key services or systems with a service provider, which includes affiliated entities or associates of CXCH and Nasdaq. This approval is not required with respect to housekeeping changes to an outsourcing agreement as defined in Schedule 5.

19. **Additional Information**

(a) Nasdaq Canada shall provide the Commission with:

(i) the information set out in Appendix A to this Schedule, as amended from time to time; and

(ii) any information required to be provided by Nasdaq Canada to IIROC, including all order and trade information, as required by the Commission.

20. **Compliance**

Nasdaq Canada shall carry out its activities as an exchange recognized under section 21 of the Act and in compliance with Ontario securities law.

21. **Provision Of Information**

(a) Nasdaq Canada shall, and shall cause its affiliated entities, to promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control of Nasdaq Canada or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

(i) data, information and analyses relating to all of its or their businesses; and

(ii) data, information and analyses of third parties in its or their custody or control.

(b) Nasdaq Canada shall share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

22. **Compliance With Terms And Conditions**

(a) Nasdaq Canada shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance;

(iii) the names and titles of employees who have oversight of compliance.

(b) If Nasdaq Canada or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to Nasdaq Canada under the Schedules to the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Regulatory Oversight Committee of the breach or possible breach. The director, officer or employee of the recognized exchange shall provide to the Regulatory Oversight Committee details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Regulatory Oversight Committee shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 22(d).

(d) The Regulatory Oversight Committee shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 22(b). Once the Regulatory Oversight Committee has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Nasdaq Canada under the Schedules to the Order, the Regulatory Oversight Committee shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

23. **Listings**

Except with the prior approval of the Commission, no securities shall be listed on Nasdaq Canada.

APPENDIX A

ADDITIONAL REPORTING OBLIGATIONS

1. **Ad Hoc**

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory organization, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, data subscription agreements, etc.), or (v) relates to a business line other than exchange services.

(b) Any plans by Nasdaq Canada to enter into new businesses (directly or indirectly, including joint ventures) or to cease existing businesses, promptly after the Board has made the decision to implement those plans.

(c) Immediate notification of:

(i) the appointment of any new director or officer of Nasdaq Canada, including a description of the individual's employment history; and

(ii) the receipt of notice of resignation from, or the resignation of, a director or officer or the auditor of Nasdaq Canada, including a statement of the reasons for the resignation.

(d) Any minutes of the meetings of Board and Board committees of Nasdaq Canada, promptly after their approval.

(e) Immediate notification if Nasdaq Canada:

(i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

(ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

(iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(f) Any strategic plan for Nasdaq Canada, within 30 days of approval by the Board.

(g) Any filings made by Nasdaq Canada with a Canadian securities regulatory authority pursuant to a recognition order, exemption order or NI 21-101, filed concurrently.

(h) Copies of all notices, bulletins and similar forms of communication that Nasdaq Canada sends to the Nasdaq Canada marketplace participants.

(i) Prompt notification of any application for exemption or waiver from Nasdaq Canada requirements received from a significant shareholder or any of its affiliated entities.

2. **Quarterly Reporting**

(a) A list of the internal audit reports and risk management reports issued in the previous quarter that relate to the operations and business of Nasdaq Canada, if such reports are produced.

(b) A quarterly report summarizing all exemptions or waivers granted during the period pursuant to the Rules to any Nasdaq Canada marketplace participant, which shall include the following information:

(i) the name of the Nasdaq Canada marketplace participant;

(ii) the type of exemption or waiver granted during the period;

(iii) the date of the exemption or waiver; and

(iv) a description of the recognized exchange's reason for the decision to grant the exemption or waiver.

(c) A quarterly report summarizing instances where conflicts of interest or potential conflicts of interest with respect to Competitors have been identified by Nasdaq Canada and how such conflicts were addressed.

3. **Annual Reporting**

At least annually, an assessment of the risks, including business risks, facing Nasdaq Canada and the plan for addressing such risks.

SCHEDULE 3

TERMS AND CONDITIONS APPLICABLE TO CXCH

24. **Definitions and Interpretation**

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2. In addition:

25. **Public Interest Responsibilities**

(a) CXCH shall conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the Board shall expressly include CXCH's regulatory and public interest responsibilities.

26. **Share Ownership Restrictions**

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert shall beneficially own or exercise control or direction over more than 10% or more than 50% respectively of any class or series of voting shares of CXCH.

(b) The articles of CXCH shall contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

27. **Recognition Criteria**

CXCH shall continue to meet the criteria for recognition set out in Schedule 1 to the Order.

28. **Fitness**

In order to ensure that CXCH and Nasdaq Canada operate with integrity and in the public interest, CXCH will take reasonable steps to ensure that each person or company that is a director or officer of CXCH is a fit and proper person and the past conduct of each person or company that is a director or officer of CXCH affords reasonable grounds for belief that the business of CXCH and Nasdaq Canada will be conducted with integrity. Each director and officer of CXCH must be a fit and proper person.

29. **Board of Directors**

(a) CXCH shall ensure that at least 50% of its Board members are independent.

(b) The Chair of the Board shall be independent.

(c) In the event that CXCH fails to meet the requirement in paragraph (a) of this section, it shall immediately advise the Commission and take appropriate measures to remedy such failure.

(d) CXCH shall ensure that its Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, at least 50% of whom shall be independent.

30. **Nominating Committee**

CXCH shall maintain a Nominating Committee that, at a minimum:

(a) is made up of at least three directors, a majority of whom shall be independent, and has an independent Chair;

(b) confirms the status of a nominee to the Board as independent before the name of the individual is submitted to shareholders as a nominee for election to the Board;

(c) confirms, on an annual basis, that the status of the directors that are independent has not changed;

(d) assesses and approves all nominees of management to the Board; and

(e) has a requirement that the quorum consist of a majority of the Nominating Committee members, a majority of whom shall be independent.

31. **Conflicts of Interest and Confidentiality Procedures**

(a) CXCH shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, perceived or real, arising from its ownership interest in Nasdaq Canada, and

(ii) require that confidential information regarding marketplace operations, regulation functions, or a Nasdaq Canada marketplace participant that is obtained by a partner, director, officer or employee of CXCH or Nasdaq through that individual's involvement in the management or oversight of the marketplace operations or regulation functions of Nasdaq Canada:

(A) be kept separate and confidential from the business or other operations of the partner, director, officer or employee of CXCH or Nasdaq, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to the partner, director, officer or employee of CXCH or Nasdaq or Nasdaq's affiliated entities,

provided that nothing in this section 31(a)(ii) shall be construed to limit CXCH or Nasdaq Canada from providing to Nasdaq necessary information. CXCH shall cause Nasdaq Canada to mandate that each Nasdaq Canada dealer and affiliated entity of a Nasdaq Canada dealer carrying on a securities business in Canada in reliance on a securities registration or exemption therefrom disclose its relationship with Nasdaq Canada to clients whose orders might be, and clients whose orders have been, routed to Nasdaq Canada.

(b) CXCH shall regularly review compliance with the policies and procedures established in accordance with section 31(a) and shall document each review and any deficiencies and how those deficiencies were remedied. A report detailing the review(s) conducted shall be provided to the Commission on an annual basis.

(c) The policies established in accordance with section 31(a) shall be made publicly available on the website of CXCH or Nasdaq Canada.

32. **Allocation of Resources**

(a) CXCH shall, for so long as Nasdaq Canada carries on business as an exchange, allocate sufficient financial and other resources to Nasdaq Canada to ensure that Nasdaq Canada can carry out its functions in a manner that is consistent with the public interest and in compliance with Ontario securities law.

(b) CXCH shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial and other resources, as required under paragraph (a), to Nasdaq Canada.

33. **Fees, Fee Models and Incentives**

(a) CXCH shall ensure that its affiliated entities, including Nasdaq Canada, do not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person, significant shareholder or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by the affiliated entity; or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies,

unless prior approval has been granted by the Commission.

(b) CXCH shall ensure that Nasdaq Canada does not require a person or company to purchase or otherwise obtain products or services from Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders as a condition of Nasdaq Canada supplying or continuing to supply a product or service unless prior approval has been granted by the Commission.

(c) CXCH shall ensure that Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders do not require another person, significant shareholder or company to obtain products or services from Nasdaq Canada as a condition of the affiliated entity supplying or continuing to supply a product or service.

34. **Order Routing**

CXCH shall not support, encourage or incent, either through fee incentives or otherwise, Nasdaq Canada marketplace participants, Nasdaq affiliated entities or significant shareholders to coordinate the routing of their order to Nasdaq Canada.

35. **Integration of Any Business or Corporate Functions**

CXCH shall obtain the prior approval of the Commission before implementing any significant integration, combination or reorganization of any businesses, operations or corporate functions relating to trading, including marketplace operations, having an impact on the operations of, the services offered by, or the manner in which services are performed by, Nasdaq Canada or CXCH, between CXCH and its affiliated entities.

36. **Financial Reporting**

(a) Within 90 days of its financial year end, CXCH shall deliver to the Commission audited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial year.

(b) Within 60 days of each quarter end, CXCH shall deliver to the Commission unaudited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial quarter.

(c) CXCH shall deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

37. **Prior Commission Approval**

CXCH shall obtain prior Commission approval of any changes to any agreement between CXCH and its significant shareholders.

38. **Reporting Requirements**

CXCH shall provide the Commission with the information set out in Appendix B to this Schedule, as amended from time to time.

39. **Compliance With Terms and Conditions**

(a) CXCH shall certify in writing to the Commission, in a certificate signed by its CEO and either its Chairman of the Board, general counsel or chief compliance officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance; and

(iii) the names and titles of employees who have oversight of compliance.

(b) If CXCH or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to CXCH under the Schedules to the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Board or committee designated by the Board and approved by the Commission of the breach or possible breach. The director, officer or employee of the recognized exchange shall provide to the Board or committee designated by the Board details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Board or committee designated by the Board shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 39(d).

(d) The Board or committee designated by the Board shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 39(b). Once the Board or committee designated by the Board has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to CXCH under the Schedules to the Order, the Board or committee designated by the Board shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

APPENDIX B

ADDITIONAL REPORTING OBLIGATIONS

1. **Ad Hoc**

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory organization, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, data subscription agreements, etc.), or (v) relates to a business line other than exchange services.

(b) Any plans by CXCH to enter into new businesses (directly or indirectly, including joint ventures) or to cease existing businesses, promptly after the Board has made the decision to implement those plans.

(c) Immediate notification of:

(i) the appointment of any new director or officer of CXCH, including a description of the individual's employment history; and

(ii) the receipt of notice of resignation from, or the resignation of, a director or officer or the auditor of CXCH, including a statement of the reasons for the resignation.

(d) Any minutes of the meetings of Board and Board committees of CXCH, promptly after their approval.

(e) Immediate notification if CXCH:

(i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

(ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

(iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(f) Immediate notification if Nasdaq becomes, or it is notified in writing that it will become, the subject of a criminal, administrative or regulatory proceeding.

(g) Any strategic plan for CXCH, within 30 days of approval by the Board.

(h) Any filings made by CXCH with a Canadian securities regulatory authority pursuant to a recognition order, exemption order or NI 21-101, filed concurrently.

2. **Quarterly Reporting**

A list of the internal audit reports and risk management reports issued in the previous quarter that relate to the operations and business of CXCH and Nasdaq Canada, if such reports are produced.

3. **Annual Reporting**

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing CXCH and Nasdaq Canada and the plan for addressing such risks.

SCHEDULE 4

TERMS AND CONDITIONS APPLICABLE TO NASDAQ AND SIGNIFICANT SHAREHOLDERS

40. Definitions and Interpretation

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2.

41. Public Interest Responsibilities

Nasdaq shall ensure that Nasdaq Canada and CXCH conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

42. Fitness

Nasdaq shall take reasonable steps to ensure that each director and officer of Nasdaq Canada and CXCH is a fit and proper person. As part of those steps, Nasdaq shall consider whether the past conduct of each director or officer affords reasonable grounds for belief that the business of Nasdaq Canada and CXCH will be conducted with integrity and in a manner that is consistent with the public interest responsibilities of Nasdaq Canada and CXCH.

43. Conflicts of Interest and Confidentiality Procedures

(a) Nasdaq shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from the involvement of a nominee of Nasdaq or a significant shareholder of Nasdaq on the Board of CXCH or Nasdaq Canada in the management or oversight of the marketplace operations or regulation functions of Nasdaq Canada, and

(ii) require that confidential information regarding marketplace operations or regulation functions, or regarding a Nasdaq Canada marketplace participant that is obtained by such nominee on the Board of Nasdaq Canada or CXCH:

(A) be kept separate and confidential from the business or other operations of such significant shareholder, except with respect to where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of exchange operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to Nasdaq, its significant shareholder or affiliated entities,

provided that nothing in this section 43(a)(ii) shall be construed to limit CXCH or Nasdaq Canada from providing to Nasdaq necessary information.

(b) Nasdaq shall establish, maintain and require compliance, or ensure that its affiliated entities that are dealers, if any, establish, maintain or require compliance with policies and procedures that identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from its ownership interest in CXCH, and indirectly in Nasdaq Canada, including, but not limited to, conflicts of interest or potential conflicts of interest that arise from any interactions between either of Nasdaq Canada and Nasdaq, Nasdaq Canada or significant shareholders or between Nasdaq Canada and the affiliated entities of Nasdaq that are dealer where Nasdaq Canada may be exercising discretion in the application of its Rules that involves or affects Nasdaq or its affiliated entities either directly and indirectly.

(c) Nasdaq shall regularly review compliance with the policies and procedures established in accordance with paragraphs (a) and (b), as applicable, and shall document each review of compliance.

44. Allocation of Resources

(a) To ensure Nasdaq Canada and CXCH can carry out their functions in a manner that is consistent with the public interest and in compliance with Ontario securities law, Nasdaq shall, for so long as Nasdaq Canada and CXCH carry on business as exchanges, facilitate the allocation of sufficient financial and non-financial resources for the operations of these exchanges.

(b) Nasdaq shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial or other resources to Nasdaq Canada or CXCH, as required under paragraph (a).

45. **Routing and Other Operational Decisions**

(a) Nasdaq shall not enter into, and shall not cause any of its affiliated entities that are dealers to enter into, any arrangements, undertakings, commitments, understandings or agreements with CXCH, Nasdaq Canada, or any marketplace participant with respect to coordination of the routing of orders to Nasdaq Canada except with respect to activities that are permitted by the requirements of Nasdaq Canada or IIROC.

(b) Each significant shareholder shall not enter into, and shall not cause any of its affiliated entities that are dealers to enter into, any arrangements, undertakings, commitments, understandings or agreements with Nasdaq, CXCH, Nasdaq Canada or any marketplace participant with respect to coordination of the routing of orders to Nasdaq Canada, except with respect to activities that are permitted by the requirements of Nasdaq Canada or IIROC.

(c) For greater certainty, paragraph (a) is not intended to prohibit any temporary agreements or coordination between Nasdaq or affiliated entities of Nasdaq that is a dealer and any other shareholder or affiliated entities of a shareholder that is a dealer or any other person in the event of any failure, malfunction or material delay of the systems or equipment of a marketplace if and to the extent reasonably necessary to protect the integrity and liquidity of capital markets, provided that prior notice of the temporary agreement or coordination is provided to the Commission.

(d) Nasdaq shall not cause any of its affiliated entities to offer or pay any benefit, financial or otherwise to its traders that would incent such traders to direct their orders to Nasdaq Canada in preference to any other marketplace.

(e) No significant shareholder shall cause any of its affiliated entities to offer or pay any benefit, financial or otherwise, to its traders, if applicable, that would incent such traders to direct their orders to Nasdaq Canada in preference to any other marketplace.

(f) Significant shareholders shall provide a written directive to their traders, if applicable, that they shall not cause routing decisions to be made based on Nasdaq's ownership interest in CXCH and Nasdaq Canada.

46. **Disclosure To Clients**

(a) A significant shareholder shall ensure that any affiliated entity that is a Nasdaq Canada marketplace participant shall disclose its relationship with Nasdaq Canada and CXCH and its affiliated entities to clients whose orders might be, and clients whose orders have been, routed to Nasdaq Canada.

47. **Conditional Provision of Products or Services**

(a) A Nasdaq Canada dealer shall not require another person or company to obtain products or services from Nasdaq Canada or any of its affiliated entities as a condition of the Nasdaq Canada dealer supplying or continuing to supply a product or service.

(b) Nasdaq shall not cause its dealer affiliated entities to require another person or company to obtain products or services from Nasdaq Canada or any of its affiliated entities as a condition of the significant shareholder supplying or continuing to supply a product or service.

48. **Notification of New Dealer Affiliated Entities**

Nasdaq shall promptly notify the Commission if it creates or acquires an affiliated entity that is a dealer.

49. **Provision of Information**

Nasdaq shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Nasdaq Canada or CXCH without limitations, redactions, restrictions, or conditions.

50. **Reporting Requirements**

Nasdaq shall provide the Commission with the information set out in Appendix C to this Schedule, as amended from time to time.

51. **Certifications**

(a) Nasdaq shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within ten days of the date that is one year from the effective date of the recognition of CXCH

and Nasdaq Canada as exchanges pursuant to this Order and every year subsequent to that date, or at other times required by the Commission, that Nasdaq is in compliance with the terms and conditions applicable to it in this Schedule and describe the steps taken to require compliance.

(b) Nasdaq shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within ten days of the date that is one year from the effective date of the recognition of CXCH and Nasdaq Canada as exchanges pursuant to this Order and every year subsequent to that date, or at other times required by the Commission, that:

(i) Nasdaq is not acting jointly or in concert with any other significant shareholder, or any affiliated entity or associated thereof, with respect to any voting shares of CXCH;

(ii) despite subparagraph (b)(i), Nasdaq may act jointly or in concert with any other shareholders under arrangements to nominate a director to the board of CXCH or Nasdaq Canada;

(iii) Nasdaq has no agreement, commitment or understanding, written or otherwise, with any other significant shareholder, or any affiliated entity or associate thereof, with respect to the acquisition or disposition of voting shares of CXCH, the exercise of any voting rights attached to any voting shares of CXCH or the coordination of decisions or voting by its nominee director of CXCH (if any) with the decisions or voting by the nominee of any other significant shareholder, other than what is included in the CXCH shareholders' agreement; and

(iv) since the last certification, Nasdaq has not acted jointly or in concert with any other significant shareholder, or any affiliated entity or associate thereof, with respect to any voting shares of CXCH, including with respect to the acquisition or disposition of any voting shares of CXCH or the exercise of any voting rights attached to any voting shares of CXCH.

52. **Compliance with Terms and Conditions**

(a) If Nasdaq or its partners, officers, directors or employees becomes aware that there has been a breach or possible breach of any of the terms and conditions applicable to it under this schedule of the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Designated Recipient (as defined below) of the breach or possible breach. The partner, director, officer or employee of Nasdaq shall provide to the Designated Recipient details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(b) "Designated Recipient" means the person or body that Nasdaq designates as having the responsibilities described in this section, which may be its Board, audit committee, governance committee (or chairperson of any of the foregoing), General Counsel, Chief Compliance Officer, an ombudsperson specifically designated by Nasdaq to review compliance with corporate policies under Nasdaq's established whistle-blowing procedures, or, with the approval of the Commission, such other person or committee designated by Nasdaq .

(c) The Designated Recipient shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 53(d).

(d) The Designated Recipient shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 53(a). Once the Designated Recipient has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Nasdaq under the Schedules to the Order, the Designated Recipient shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

53. **Expiry of Terms and Conditions**

The obligations of Nasdaq to comply with the terms and conditions of this Schedule expire on the later of:

(a) the date on which, for a consecutive six month period, Nasdaq owns less than 10% of the number of voting shares of CXCH that it had beneficially owned or exercised control or direction over at the launch of the recognized exchange, and

(b) the date on which the nominee or partner, officer, director or employee of Nasdaq has ceased to be a director on the board of CXCH or Nasdaq Canada.

APPENDIX C

ADDITIONAL REPORTING OBLIGATIONS

1. **Ad Hoc**

(a) Any strategic plan for Nasdaq in respect of the operations of Nasdaq Canada or CXCH, within 30 days of approval by the Board.

SCHEDULE 5

PROCESS FOR THE REVIEW AND APPROVAL OF RULES AND THE INFORMATION CONTAINED IN FORM 21-101F1 AND THE EXHIBITS THERETO

1. **Purpose**

This Protocol sets out the procedures a recognized exchange (Exchange) must follow for any Rule or Change, both as defined in section 2 below, and describes the procedures for their review by Commission Staff (Staff) and approval by the Commission or the Director.

2. **Definitions**

For the purposes of this Protocol:

(a) *Change* means a Fee Change, a Housekeeping Change or a Significant Change.

(b) *Fee Change* means any new fee or fee model of the Exchange and any amendment to a fee or fee model.

(c) *Housekeeping Change* means an amendment to the information in Form 21-101F1 that

(i) does not have an impact on the Exchange's market structure, members, issuers, investors or the capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(d) *Housekeeping Rule* means a new Rule or an amendment to a Rule that

(i) does not have an impact on the Exchange's market structure, members, issuers, investors or the capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(e) *Public Interest Rule* means a Rule or an amendment to a Rule that is not a Housekeeping Rule.

(f) *Rule* includes a rule, policy and other similar instrument of the Exchange.

(g) *Significant Change* means an amendment to the information in Form 21-101F1 other than

(i) a Housekeeping Change,

(ii) a Fee Change, or

(iii) a Rule,

and for greater certainty includes the matters listed in subsection 6.1(4) of Companion Policy 21-101 CP.

(h) *Significant Change subject to Public Comment* means a Significant Change that

(i) is listed in paragraphs 6.1(4)(a), (b), (c) or (d) of Companion Policy 21-101 CP, or

(ii) in Staff's view, has an impact on the Exchange's market structure or members, or on issuers, investors or the capital markets or otherwise raises public interest concerns and should be subject to public comment.

3. **Scope**

(a) The Exchange and Staff will follow the process for review and approval set out in this Protocol for all Changes, new Rules and Rule amendments.

4. **Board Approval**

(a) The Exchange's board of directors, or a duly authorized committee of the board, must approve all Rules prior to their submission under this Protocol.

5. **Waiving or Varying the Protocol**

(a) The Exchange may file a written request with Staff to waive or vary any part of this Protocol. The request must provide reasons why granting the waiver is appropriate in the circumstances.

(b) Staff will use their best efforts to provide to the Exchange within five business days of receipt of its request either:

(i) written notice that Staff object to granting the waiver or variation; or

(ii) written notice that the waiver or variation has been granted by Staff.

6. **Materials to be Filed and Timelines**

(a) Prior to the implementation of a Fee Change, Public Interest Rule or Significant Change, the Exchange will file with Staff the following materials:

(i) a cover letter that, together with the notice for publication filed under paragraph 6(a)(ii), if applicable, fully describes:

(A) the proposed Fee Change, Public Interest Rule or Significant Change;

(B) the expected date of implementation of the proposed Fee Change, Public Interest Rule or Significant Change;

(C) the rationale for the proposal and any relevant supporting analysis;

(D) the expected impact of the proposed Fee Change, Public Interest Rule or Significant Change on the market structure, members and, if applicable, on investors, issuers and the capital markets;

(E) whether a proposed Public Interest Rule or Significant Change would increase or decrease systemic risk in the Canadian financial system and how any increase would be mitigated, if applicable;

(F) a discussion of the expected impact of the Fee Change, Public Interest Rule or Significant Change on the Exchange's compliance with Ontario securities law and in particular on requirements for fair access and maintenance of fair and orderly markets;

(G) details of any consultations undertaken in formulating the Fee Change, Public Interest Rule or Significant Change, including the internal governance process followed to approve the Rule or Change;

(H) if the Public Interest Rule or Significant Change will require members and service vendors to modify their own systems after implementation of the Rule or Change, a reasonable estimate of the amount of time needed to perform the necessary work, or an explanation as to why a reasonable estimate was not provided;

(I) a discussion of any alternatives considered; and

(J) if applicable, whether the proposed Fee Change, Significant Change or Public Interest Rule would introduce a fee model, feature or Rule that currently exists in other markets or jurisdictions;

(ii) for a proposed Public Interest Rule or Significant Change subject to Public Comment, a notice for publication that includes the information required under paragraph 6(a)(i) above, except that the following may be excluded from the notice:

(A) supporting analysis required under subparagraph 6(a)(i)(C) above that, if included in the notice, would result in the public disclosure of intimate financial, commercial or technical information;

(B) the information on systemic risk required under subparagraph 6(a)(i)(E) above;

(C) the information on the internal governance processes followed required under subparagraph 6(a)(i)(G) above;

(D) the reasonable estimate of time needed for members and service vendors to modify their own systems, or the explanation as to why a reasonable estimate was not provided, required under subparagraph 6(a)(i)(H), so long as the notice for publication contains a statement that the Exchange did not or could not make a reasonable estimate; and

(E) the discussion of alternatives required under subparagraph 6(a)(i)(I) above.

(iii) for a proposed Public Interest Rule, the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules, and if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) for a proposed Fee Change or Significant Change, blacklined and clean copies of Form 21-101F1 showing the proposed Change.

(b) The Exchange will file the materials set out in subsection 6(a)

(i) at least 45 days prior to the expected implementation date of a proposed Public Interest Rule or Significant Change; and

(ii) at least seven business days prior to the expected implementation date of a proposed Fee Change.

(c) For a Housekeeping Rule, the Exchange will file with Staff the following materials:

(i) a cover letter that fully describes the Rule and indicates that it was classified as a Housekeeping Rule and provides an analysis of the rationale for the classification, and the date or proposed date of implementation of the Rule;

(ii) the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules;

(iii) if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) a notice for publication on the OSC website and in the OSC Bulletin that contains the information in paragraph (ii) above as well as the implementation date for the Rule, and indicates that the Rule has been classified as a Housekeeping Rule and was not published for comment.

(d) For a Housekeeping Change, the Exchange will file with Staff the following materials:

(i) a cover letter that indicates that the Change was classified as a Housekeeping Change and provides an analysis of the rationale for the classification and the expected or actual date of implementation of the Change; and

(ii) blacklined and clean copies of Form 21-101F1 showing the Change.

(e) The Exchange will file the materials set out in subsection 6(d) by the earlier of

(i) the Exchange's close of business on the 10th calendar day after the end of the month in which the Housekeeping Change was implemented; and

(ii) the date on which the Exchange publicly announces a Housekeeping Change, if applicable.

7. **Review by Staff of notice and materials to be published for comment**

(a) Within 5 business days of the receipt of the notice and materials filed by the Exchange relating to a Public Interest Rule or Significant Change subject to Public Comment in accordance with subsection 6(a), Staff will review the notice and materials to ensure that they contain an adequate level of detail, analysis and discussion to elicit meaningful public comment, and will promptly notify the Exchange of any deficiency requiring a re-filing of the notice and materials.

(b) Where the notice and materials are considered by Staff to be deficient, the Exchange will amend and resubmit the notice and materials accordingly, and the date of resubmission will serve as the filing date for the purposes of this Protocol.

(c) Where the notice and materials are considered by Staff to be adequate for publication, Staff will proceed with the processes set out in section 8.

8. Publication of a Public Interest Rule or Significant Change Subject to Public Comment

(a) As soon as practicable after the receipt of the notice and materials filed by the Exchange relating to a Public Interest Rule or Significant Change subject to Public Comment in accordance with subsection 6(a), Staff will publish in the OSC Bulletin and on the OSC website the notice prepared by the Exchange, along with a notice prepared by Staff, if necessary, that provides market participants with an opportunity to provide comments to Staff and to the Exchange within 30 days from the date the notice appears in the OSC Bulletin or on the OSC website, whichever comes first.

(b) If public comments are received

(i) the Exchange will forward copies of the comments promptly to Staff; and

(ii) the Exchange will prepare a summary of the public comments and a response to those comments and provide them to Staff promptly after the end of the comment period.

9. **Review and Approval Process for Proposed Fee Changes, Public Interest Rules and Significant Changes**

(a) Staff will use their best efforts to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change within

(i) 45 days from the date of filing of a proposed Public Interest Rule or Significant Change; and

(ii) seven business days from the date of filing of a proposed Fee Change.

(b) Staff will notify the Exchange if they anticipate that their review of the proposed Fee Change, Public Interest Rule or Significant Change will exceed the timelines in subsection 9(a).

(c) If Staff have material comments or require additional information to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change, Staff will use best efforts to provide the Exchange with a comment letter promptly by the end of the public comment period for a Public Interest Rule or Significant Change subject to Public Comment, and promptly after the receipt of the materials filed under section 6 for all other Changes.

(d) The Exchange will respond to any comments received from Staff in writing.

(e) Unless Staff agree to an extension of time, if the Exchange fails to respond to Staff's comments within 120 days after the receipt of Staff's comment letter, the Exchange will be deemed to have withdrawn the proposed Fee Change, Public Interest Rule or Significant Change. If the Exchange wishes to proceed with the Fee Change, Public Interest Rule or Significant Change after it has been deemed withdrawn, the Exchange will have to be re-submit it for review and approval in accordance with this Protocol.

(f) Upon completion of Staff's review of a Fee Change, Public Interest Rule or Significant Change, Staff will submit the Change or Rule to the Director or, in the circumstances described in subsection 9(g), to the Commission, for a decision within the following timelines:

(i) for a Public Interest Rule or a Significant Change subject to Public Comment, the later of 45 days from the date that the related materials were published for comment and the date that Staff's comments and public comments, including any concerns identified, have been adequately addressed by the Exchange;

(ii) for any other Significant Change, the later of 45 days from the date of filing of the Change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange; or

(iii) for a Fee Change, the later of seven business days from the date of filing of the change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange.

(g) A Fee Change, Public Interest Rule or Significant Change may be submitted to the Commission for a decision, within the timelines in subsection 9(f),

(i) if the proposed Fee Change, Public Interest Rule or Significant Change is complex or introduces a novel feature to the Exchange or the capital markets;

(ii) if comments received through the public comment process raise significant public interest concerns; or

(iii) in any other situation where, in Staff's view, Commission approval is appropriate.

(h) Staff will promptly notify the Exchange of the decision.

(i) If a Public Interest Rule or Significant Change subject to Public Comment is approved, Staff will publish the following documents in the OSC Bulletin and on the OSC website promptly after the approval:

(i) a notice indicating that the proposed Rule or Change is approved;

(ii) the summary of public comments and responses prepared by the Exchange, if applicable; and

(iii) if non-material changes were made to the version published for public comment, a brief description of these changes prepared by the Exchange and a blacklined copy of the revised Rule or Change highlighting the revisions made.

10. **Review Criteria for a Fee Change, Public Interest Rule and Significant Change**

(a) Staff will review a proposed Fee Change, Public Interest Rule or Significant Change in order to assess whether it is in the public interest for the Director or the Commission to approve the Rule or Change. In making this determination, Staff will have regard to the mandate of the Commission as set out section 1.1 of the Securities Act (Ontario). The factors that Staff will consider in making their determination also include whether:

(i) the Rule or Change would impact the Exchange's compliance with Ontario securities law;

(ii) the Exchange followed its established internal governance practices in approving the proposed Rule or Change;

(iii) the Exchange followed the requirements of this Protocol and has provided sufficient analysis of the nature, purpose and effect of the Rule or Change; and

(iv) the Exchange adequately addressed any comments received.

11. **Effective Date of a Fee Change, Public Interest Rule or Significant Change**

(a) A Fee Change, Public Interest Rule or Significant Change will be effective on the later of:

(i) the date that the Exchange is notified that the Change or Rule is approved;

(ii) if applicable, the date of publication of the notice of approval on the OSC website; and

(iii) the date designated by the Exchange.

12. **Significant Revisions and Republication**

(a) If, subsequent to its publication for comment, the Exchange revises a Public Interest Rule or a Significant Change subject to Public Comment in a manner that results in a material change to the proposed substance or effect of the Rule or Change, Staff will, in consultation with the Exchange, determine whether or not the revised Rule or Change should be published for an additional 30-day comment period.

(b) If a Public Interest Rule or Significant Change subject to Public Comment is republished under subsection 12(a), the request for comments will include a blacklined version marked to the originally published version, a summary of comments and responses prepared by the Exchange, and an explanation of the revisions and the supporting rationale for the revisions.

13. **Withdrawal of a Fee Change, Public Interest Rule or Significant Change**

(a) If the Exchange withdraws a Fee Change, Public Interest Rule or a Significant Change that was previously submitted, it will provide a written notice of withdrawal to Staff.

(b) If the notice of withdrawal relates to a Public Interest Rule or Significant Change subject to Public Comment, Staff will publish the notice of withdrawal in the OSC Bulletin and OSC website as soon as practicable.

(c) If a Public Interest Rule or Significant Change subject to Public Comment is deemed to have been withdrawn as provided in subsection 9(e), Staff will prepare and publish a notice informing market participants that the Exchange did not proceed with the Rule or Change.

14. **Effective Date of a Housekeeping Rule or Housekeeping Change**

(a) Subject to subsections 14(c) and 14(d), a Housekeeping Rule will be effective on the later of

(i) the date of the publication of the notice to be published on the OSC website in accordance with subsection 14(e), and

(ii) the date designated by the Exchange.

(b) Subject to subsections 14(c) and 14(d), a Housekeeping Change will be effective on the date designated by the Exchange.

(c) Staff will review the materials filed by the Exchange for a Housekeeping Change or Housekeeping Rule to assess the appropriateness of the categorization of the Rule or Change as housekeeping within five business days from the date that the Exchange filed the documents in accordance with subsections 6(c) and 6(d). The Exchange will be notified in writing if there is disagreement with respect to the categorization of the Rule or Change as housekeeping.

(d) If Staff disagree with the categorization of the Rule or Change as housekeeping, the Exchange will immediately repeal the Change, if applicable, file the proposed Rule as a Public Interest Rule or the proposed Change as a Significant Change, and follow the review and approval processes described in this Protocol as applying to a Public Interest Rule or Significant Change, including those processes applicable to a Significant Change subject to Public Comment if applicable.

(e) If Staff do not disagree with the categorization of the Rule, Staff will publish a notice to that effect in the OSC Bulletin and on the OSC website as soon as is practicable.

15. **Immediate Implementation of a Public Interest Rule or Significant Change**

(a) The Exchange may need to make a Public Interest Rule or Significant Change effective immediately where the Exchange determines that there is an urgent need to implement the Rule or Change to maintain fair and orderly markets, or because of a substantial and imminent risk of material harm to the Exchange, its members, other market participants, issuers or investors.

(b) When the Exchange determines that immediate implementation is necessary, it will advise Staff in writing as soon as possible but in any event at least five business days prior to the proposed implementation of the Public Interest Rule or Significant Change. The written notice will include the expected effective date of the Public Interest Rule or Significant Change and an analysis to support the need for immediate implementation. An application for an exemption from the 45-day advance filing requirements in National Instrument 21-101 must also be included as part of the written notice.

(c) If Staff do not agree that immediate implementation is necessary, Staff will promptly notify the Exchange, in writing, of the disagreement no later than the end of the third business day following filing of the notice under subsection 15(b). If the disagreement is not resolved, the Exchange will file the Public Interest Rule or Significant Change in accordance with the timelines in section 6.

16. **Review of a Public Interest Rule or Significant Change Implemented Immediately**

A Public Interest Rule or Significant Change that has been implemented immediately in accordance with section 15 will be published, if applicable, and reviewed and approved by the Director or by the Commission in accordance with the procedures set out in section 9, with necessary modifications. If the Director or the Commission does not approve the Public Interest Rule or Significant Change, the Exchange will immediately repeal the Rule or Change and inform its members of the decision.

17. **Application of Section 21 of the *Securities Act* (Ontario)**

The Commission's powers under subsection 21(5) of the *Securities Act* (Ontario) are not constrained in any way, notwithstanding a Rule or Change having been approved under this Protocol.

SUMMARY OF COMMENTS AND RESPONSES TO NASDAQ CANADA EXCHANGE APPLICATION

Note: The responses to the comments reflect the views of Nasdaq Canada and do not necessary reflect the views of the Ontario Securities Commission (OSC)

Nasdaq CXC Limited (**Nasdaq Canada**) and Ensoleillement Inc. (**CXCH**) have applied to the OSC for recognition as exchanges under section 21 of the *Securities Act* (Ontario) (the **Application**). A related Notice and Request for Comment – Application for Recognition as Exchanges – Nasdaq CXC Limited and Ensoleillement Inc. was published on October 12, 2017 (the Notice). Two comment letters were received in response to the Application: one from the TMX Group Limited (**TMX Group**) and one from Aequitas Neo Exchange (**Aequitas**).The following is a summary of comments received and Nasdaq Canada's responses.

COMMENT	NASDAQ CANADA RESPONSE
Level Playing Field – Consistent application of terms and conditions There should be a consistent approach to the application of regulatory requirements to all recognized exchanges; in some cases there should be adjustments to requirements applicable to existing exchanges (TMX Group)	Recognized exchanges must meet exchange recognition criteria established by their principal regulator. The specific terms and conditions included in an exchange recognition order are determined by regulators on a case-by-case basis, taking into consideration differences in the ownership structure, governance, operations and business lines of the exchange and its affiliates, and its places of operation. The terms and conditions included in the recognition orders of Canada's existing exchanges evidence this point. The recognition order of Aequitas (the OSC's most recently-issued) does not include many of the terms and conditions included in the TMX Group recognition order (**TMX Group Order**). This reflects differences between the two exchanges. For example, unlike the TMX Group, Aequitas does not own or control securities clearing and settlement infrastructure in Canada, nor does it control the same competitive market share or pricing power as TMX Group. This is also evident when comparing the TMX Group Order to that of the Canadian Securities Exchange. Not only do the terms of exchange recognition orders vary across the existing exchanges in Canada, they also vary over time depending on the nature of the exchange and its related business(es) in Canada. For example, the TMX Group Order has changed significantly over time as new regulatory concerns have been raised and addressed through new terms and conditions in response to changes in ownership, acquisitions and the addition of new business lines. Significant amendments were made in 2002 in response to the demutualizing of TMX Group, in 2008 when the TMX Group acquired the Montreal exchange and most notably in 2012 as the result of Maple transaction. In the case of Nasdaq Canada, the OSC has proposed terms and conditions that meet the OSC's exchange recognition criteria, are consistent, where appropriate, with recognition orders of existing exchanges, balance investor protection and efficient markets, and allow Nasdaq Canada to be innovative.
Level Playing Field – Fairness Concerns TMX: The Canadian regulatory regime applicable to Nasdaq must not provide Nasdaq a regulatory advantage over Canadian incumbents (TMX Group, Aequitas).	As discussed above, the regulatory framework imposed on an exchange is the result of a regulatory review process that ensures that exchange recognition criteria are met and that determines specific terms and conditions necessary to serve the public interest and protect investors given the exchange's governance, ownership, business lines and competitive positioning. The claim that all exchanges should have identical regulatory requirements to ensure fair competition assumes that a one size fits all approach is appropriate. A one size fits all approach ignores key differences between exchanges.

	In the case of the TMX Group Order, the terms and conditions imposed on TMX Group not only reflect the need to have regulatory requirements in place that ensure proper oversight of the exchange, but also competition concerns that restrict TMX Group from using its dominant market position anti-competitively. Pursuant to the Maple transaction, TMX Group expanded its ownership of the largest Canadian trading venues for trading equity and debt securities and its monopoly for exchange traded derivatives to include both Canada's only clearing and settlement service provider and Alpha, Canada's second largest trading platform at the time for TSX-listed securities. It is the integration of trading, clearing and settlement and derivatives businesses under a single entity owned by significant shareholders, themselves representing significant capital markets participants, that resulted in many new terms and conditions in the TMX Group Order not included prior to Maple. In contrast to the Maple transaction, Nasdaq Canada's Application is proposing to support its existing business line. When the Maple transaction was completed TMX Group was responsible for a majority of listed issuers in Canada (including the entire universe of large cap names), 85% market share of Canadian listed securities[1], one hundred percent control of Canada's exchange traded derivatives market and clearing and settlement services provider and a virtual monopoly for Canadian data products. Taken together, this level of market power raises the possibility of anti-competitive behavior. As a result, the regulatory burden imposed on the TMX Group by way of the TMX Group Order is appropriate for a company with a dominant market position. In contrast, Nasdaq Canada, an operator of a trading business with only 20% market share, represents a competitor against the dominant incumbent attempting to build market strength in a highly competitive market. The TMX Group comments fail to consider the significant regulatory requirements imposed on Nasdaq Inc., Nasdaq Canada parent holding company, in its principal jurisdiction, the United States. Unlike the TMX Group, Nasdaq Inc. must comply with SEC, CFTC and other U.S. regulatory requirements including the administration of its public interest mandate in in the United States. A comparison of the relative regulatory burdens of the TMX Group and Nasdaq Inc. should take into consideration the entire suite of obligations to which these two entities are subject.
Departure from oversight approach taken to date with respect to parent company of an exchange, in particular in respect of reporting obligations for a parent company (TMX Group, Aequitas)	In the context of each exchange application, the OSC assesses where the mind and management of the operating exchange resides and what terms and conditions are appropriate to ensure the public interest is protected by an effective reporting and oversight framework. This objective can be achieved either by recognizing as an exchange the holding company of the operating exchange or by applying appropriate terms and conditions on the parent company. The latter approach was found to be more appropriate under the circumstances for Nasdaq Inc. Unlike TMX Group or Aequitas whose business is principally conducted in Canada, Nasdaq Canada is one of multiple businesses and marketplaces operated by Nasdaq Inc. globally. Under the recognition order, Nasdaq Inc. must ensure that Nasdaq Canada conducts its business and operations in a manner consistent with the public interest, that it facilitates the allocation of sufficient financial and non-financial of operations of exchanges and that it must provide the OSC all information related to the business and

[1] Market share measured by volume for July 2012 according to the Investment Industry Regulatory Organization of Canada Report of Market Share by Marketplace.

	operations of the exchange upon request. Taken together, these terms and conditions ensure that the public interest is protected, that Nasdaq Canada will receive sufficient funding to achieve this objective, and that the OSC is able to request and review information it deems necessary to conduct its oversight responsibilities.
Certain Terms included in other recognition orders do not appear in the proposed Nasdaq CXC recognition order Prior Approval – Internal Cost Allocation Model (TMX Group)	The origin of this requirement was the Maple transaction and the resulting vertical integration of trade execution and clearance and settlement services. A regulatory concern for all vertically integrated exchanges is cross subsidization where discounted pricing is introduced for one service open to competition while fees for another service are increased to compensate for the loss. Nasdaq Canada operates only a trading business, which makes an internal cost allocation model term inappropriate. We note that the term in not included in the Aequitas recognition order.
Prior Approval – Integration of Business or Corporate Functions (TMX Group)	In the case of TMX Group, prior OSC approval is required before the integration of trade execution, clearance and settlement service and derivatives in Canada. Given that Nasdaq Canada only operates a trading business a similar term limited to trading has been included in the Nasdaq Canada recognition order.
Prior approval – Outsourcing of key services (TMX Group)	This requirement was included in the TMX Group Order at a time when a similar requirement was not included in NI 21-101. All marketplaces, including Nasdaq CXC Limited currently operating as an ATS, are required to file an outsourcing arrangement of a key service with the OSC under section 5.12 of NI 21-101. We note that there is not a similar prior approval requirement in the Aequitas recognition order, even though its holding company owns an unlicensed technology affiliate (in addition to the exchange business).
Comments on Nasdaq CXC Trading Rules and Policies (Aequitas) o "DEA Client" Definition: It is not evident whether Nasdaq Canada is limiting DEA Client access to those clients that are eligible under National Instrument 23-103.	The DEA Client definition has been clarified to refer only to those clients that are eligible under National Instrument 23-103.
o UMIR ID This term appears in several definitions and it is unclear if it is meant to be used in place of account ID or Trader ID	The use of the UMIR ID term has been harmonized throughout all materials.
o Market Regulator This is defined as meaning "the Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems..." It is unclear whether it is meant to refer to the OSC as lead regulator or IIROC	This definition has been revised to refer to IIROC.
o Trade Through definition This proposed definition is limited to executions on protected markets. An execution at an inferior price on an unprotected market (CXD, for example) would also be a trade-through.	This definition has been revised accordingly.
o Section 9 – Appeals Policy A decision by the ROC may be appealed via arbitration "… and/or appeal to the Market Regulator". Please see (c) above regarding the definition of "Market Regulator".	This question has been addressed by the revision noted in the definition of "Market Regulator"

Listings Should Nasdaq CXC propose in the future to offer listings, other marketplace participants should have the opportunity to comment on the proposal and any effects it may have (TMX Group, Aequitas)	In the event that Nasdaq CXC chooses to offer listings in the future, Nasdaq CXC expects that such a change would be a material change subject to public comment.

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Franklin Templeton Investments Corp. and Franklin Bissett Canadian Bond Fund – s. 6.1 of NI 81-101 Mutual Fund Prospectus Disclosure

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from ss. 2.1(2) of NI 81-101 to file a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 2.1(2), 6.1.

December 18, 2017

Franklin Templeton Investments Corp.

Attention: Andrew Anderson

Dear Sirs/Mesdames:

Re: Franklin Templeton Investments Corp. (the Filer)

Preliminary Simplified Prospectus, Annual Information Form and Fund Facts dated September 22, 2017

Franklin Bissett Canadian Bond Fund

Application under section 6.1 of National Instrument 81-101 – *Mutual Fund Prospectus Disclosure* (NI 81-101) for an extension of the 90 day period under subsection 2.1(2) of NI 81-101

Application No. 2017/0710; SEDAR Project No. 2677425

By letter dated December 13, 2017 (the **Application**), the Filer, as the manager of the Fund, applied on behalf of the Fund to the Director of the Ontario Securities Commission (the **Director**) under section 6.1 of NI 81-101 for relief from subsection 2.1(2) of NI 81-101, which prohibits a mutual fund from filing a prospectus more than 90 days after the date of the receipt for the preliminary simplified prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Fund's prospectus, subject to the condition that the prospectus be filed no later than January 2, 2018.

Yours very truly,

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

25.2 Approvals

25.2.1 Tacita Capital Inc. – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager that is registered as an investment fund manager, portfolio manager and exempt market dealer under the Securities Act, with no prior track record acting as trustee, for approval to act as trustee of pooled funds and future pooled funds to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited:

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

December 19, 2017

AUM Law
175 Bloor Street East
Suite 303, South Tower
Toronto, Ontario M4W 3R8

Attention: Christopher Tooley

Dear Sirs/Mesdames:

Re: Tacita Capital Inc. (the "Applicant")

Application pursuant to clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario) for approval to act as trustee

Application No. 2017/0638

Further to your application dated November 17, 2017 (the "Application") filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that the assets of TCI Canadian Preferred Share Private Pool, TCI Canadian Equity Private Pool and TCI Real Assets Private Pool and any other future mutual fund trusts that the Applicant may establish and manage from time to time, the securities of which will be offered pursuant to prospectus exemptions, will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the *Bank Act* (Canada), or a qualified affiliate of such bank or trust company, the Ontario Securities Commission (the "Commission") makes the following order:

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of TCI Canadian Preferred Share Private Pool, TCI Canadian Equity Private Pool and TCI Real Assets Private Pool and any other future mutual fund trusts which may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to prospectus exemptions.

Yours truly,

"Janet Leiper"
Commissioner

"Frances Kordyback"
Commissioner

25.3 Consents

25.3.1 NewCastle Gold Ltd. – s. 4(b) of Ont. Reg. 289/00 under the OBCA

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the British Columbia Business Corporations Act.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Ont. Reg. 289/00, as am., s. 4(b), made under the Business Corporations Act, R.S.O. 1990, c. B.16, as am.

IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00, AS AMENDED
(the "Regulation")
MADE UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990, c. B.16, AS AMENDED
(the "OBCA")

AND

IN THE MATTER OF
NEWCASTLE GOLD LTD.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of NewCastle Gold Ltd. (the "**Corporation**") to the Ontario Securities Commission (the "**Commission**") requesting the consent of the Commission, as required under subsection 4(b) of the Regulation, for the Corporation to continue in another jurisdiction pursuant to section 181 of the OBCA (the "**Continuance**");

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

AND UPON the Corporation having represented to the Commission that:

1. The Corporation was incorporated under the OBCA by certificate of incorporation effective on December 16, 2009.

2. The Corporation's registered office is located at 333 Bay Street, Suite # 2400, Toronto, Ontario M5H 2T6, with its principal place of business located at Suite 2915, 181 Bay Street, Toronto, Ontario M5J 2T3.

3. The authorized share capital of the Corporation consists of an unlimited number of common shares (the "**Common Shares**"), of which 203,782,627 were issued and outstanding on December 19, 2017.

4. The Corporation's issued and outstanding common shares are listed for trading on the Toronto Stock Exchange under the symbol "NCA". The Corporation does not have any of its securities listed on any other exchange.

5. The Corporation intends to apply to the Director pursuant to section 181 of the OBCA (the "**Application for Continuance**") for authorization to continue as a corporation under the British Columbia *Business Corporations Act*, S.B.C. 2002, c.57 (the "**BCBCA**").

6. Pursuant to subsection 4(b) of the Regulation, where a corporation is an offering corporation under the OBCA, the Application for Continuance must be accompanied by the consent of the Commission.

7. The Corporation is an offering corporation under the provisions of the OBCA and is a reporting issuer within the meaning of the *Securities Act*, R.S.O. 1990, c. s. 5, as amended (the "**OSA**"), and the securities legislation of each of British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (the "**Legislation**").

8. The Application for Continuance is being made in connection with a plan of arrangement under the BCBCA involving the Corporation, Trek Mining Inc. ("**Trek**"), a corporation existing under the BCBCA, and Anfield Gold Corp. ("**Anfield**"), a corporation existing under the BCBCA, whereby Trek will acquire all of the outstanding shares of the Corporation and Anfield from the shareholders of the Corporation and Anfield, respectively, for consideration of 0.873 common shares of Trek (each whole share, a "**Trek Share**") for each common share of the Corporation (the "**Common Shares**") and 0.407 Trek Shares for each common share of Anfield (the "**Proposed Arrangement**").

9. The Continuance of the Corporation is to be completed because the Corporation intends to complete the Proposed Arrangement with Trek and Anfield. In order to complete the Proposed Arrangement, the Corporation, Trek and Anfield must be governed by the laws of the same jurisdiction. Currently, the Corporation is governed by the laws of the Province of Ontario and Trek and Anfield are governed by the laws of the Province of British Columbia. As a result, the Corporation is applying for authorization to continue under the BCBCA.

10. Pursuant to the interim order of the Supreme Court of British Columbia made pursuant to Section 291 of the BCBCA in connection with the Proposed Arrangement (the "**Interim Order**"), the Proposed Arrangement is to be approved by shareholders of the Corporation following the completion of the Continuance of the Corporation.

11. The Corporation intends to remain a reporting issuer under the OSA and the Legislation following the Continuance until the completion of the Proposed Arrangement.

12. Following the Proposed Arrangement, the Corporation will become a wholly owned subsidiary of Trek, which has a registered and records office located in British Columbia and is a reporting issuer within the meaning of the OSA and the Legislation. The Corporation intends to make an application to cease to be a reporting issuer under the OSA and the Legislation following the Proposed Arrangement. However, Trek intends to remain a reporting issuer under the OSA and the Legislation following the Proposed Arrangement.

13. The Corporation is not in default under any provision of the OBCA, the OSA or the Legislation, including any of the regulations or rules made thereunder.

14. The Corporation is not a party to any proceeding or, to the best of its knowledge, information and belief, any pending proceeding under the OBCA, the OSA or the Legislation.

15. The Corporation's shareholders authorized the Continuance of the Corporation as a corporation under the BCBCA by way of special resolution at a special meeting of shareholders (the "**Meeting**") held on December 19, 2017, following which the Corporation adjourned the Meeting to effect the Continuance.

16. Following the completion of the Continuance of the Corporation, the Corporation intends to reconvene the Meeting in accordance with the BCBCA, subject to the terms of the Interim Order, to seek approval by the shareholders of the Corporation of the Proposed Arrangement in accordance with the Interim Order.

17. A joint management information circular of the Corporation and Anfield dated November 14, 2017 describing the Continuance and the Proposed Arrangement was provided to the shareholders together with the notice of Meeting, and advised them of their dissent rights in connection with the Continuance pursuant to section 185 of the OBCA.

18. The material rights, duties and obligations of a corporation governed by the BCBCA are substantially similar to those of a corporation governed by the OBCA.

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

THE COMMISSION HEREBY CONSENTS to the Continuance of the Corporation as a corporation under the BCBCA.

DATED this 19th day of December, 2017.

"Grant Vingoe"
Commissioner
Ontario Securities Commission

"Timothy Moseley"
Commissioner
Ontario Securities Commission

Index