The Ontario Securities Commission

OSC Bulletin

April 12, 2018

Volume 41, Issue 15

(2018), 41 OSCB

The Ontario Securities Commission administers the
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)

The Ontario Securities Commission
Cadillac Fairview Tower
22nd Floor, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

416-593-8314 or Toll Free 1-877-785-1555

Contact Centre – Inquiries, Complaints:

Fax: 416-593-8122
TTY: 1-866-827-1295

Office of the Secretary:

Fax: 416-593-2318

Published under the authority of the Commission by:
Thomson Reuters
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

416-609-3800 or 1-800-387-5164

The OSC Bulletin is published weekly by Thomson Reuters Canada, under the authority of the Ontario Securities Commission.

ISSN 0226-9325

One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

Customer Support
1-416-609-3800 (Toronto & International)
1-800-387-5164 (Toll Free Canada & U.S.)
Fax 1-416-298-5082 (Toronto)
Fax 1-877-750-9041 (Toll Free Canada Only)
Email CustomerSupport.LegalTaxCanada@TR.com

Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 OSC Staff Notice 11-739 (Revised) – Policy Reformulation Table of Concordance and List of New Instruments

OSC STAFF NOTICE 11-739 (REVISED)

POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of March 31, 2018 has been posted to the OSC Website at www.osc.gov.on.ca.

Table of Concordance

Item Key
The third digit of each instrument represents the following: 1-National/Multilateral Instrument; 2-National/Multilateral Policy; 3-CSA Notice; 4-CSA Concept Release; 5-Local Rule; 6-Local Policy; 7-Local Notice; 8-Implementing Instrument; 9-Miscellaneous

Reformulation

Instrument	Title	Status
	Interpretation Note 1, Distribution of Securities Outside Ontario	***Withdrawn effective March 31, 2018***

New Instruments

Instrument	Title	Status
21-711	Multilateral Trading Facilities – Exemption from Requirement to be Recognized as an Exchange	***Published January 4, 2018***
11-742	Securities Advisory Committee (Revised)	***Published January 11, 2018***
21-322	Applicability of Regulation to the Operation of MTFs or OTFs in Canada	***Published January 11, 2018***
11-739	Policy Reformulation Table of Concordance and List of New Instruments	***Published January 18, 2018***
15-601	Whistleblower Program – Amendment	***Published for comment January 18, 2018***
23-321	Order Protection Rule: Market Share Threshold for the period April 1, 2018 to March 31, 2019	***Published February 1, 2018***
51-352	Issuers with U.S. Marijuana Related Activities – Revised	***Published February 15, 2018***
31-352	Monthly Suppression of Terrorism and Canadian Sanctions Reporting	***Published March 1, 2018***
51-711	Refilings and Corrections of Errors – Revised	***Published March 8, 2018***
45-106	Prospectus Exemptions – Amendments (Related to Syndicated Mortgages)	***Published for comment March 8, 2018***

New Instruments

Instrument	Title	Status
31-103	Registration Requirements, Exemptions and Ongoing Registrant Obligations – Amendments (Related to Syndicated Mortgages)	***Published for comment March 8, 2018***
13-707	Fees under OSC Rule 13-502 Fees and OSC Rule 13-503 (Commodity Futures Act)	***Published March 15, 2018***
72-503	Distributions Outside Canada	***Ministerial approval published March 22, 2018***
11-501	Electronic Delivery of Documents to the Ontario Securities Commission – Amendments	***Ministerial approval published March 22, 2018***
11-779	Seniors Strategy	***Published March 22, 2018***
23-322	Trading Fee Rebate Pilot Study	***Published March 22, 2018***
51-353	Update on CSA Consultation Paper 51-404 Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers	***Published March 29, 2018***
11-780	Statement of Priorities – Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2019	***Published for comment March 29, 2018***
31-353	OBSI Joint Regulators Committee Annual Report	***Published March 29, 2018***
45-102	Resale of Securities – Amendments	***Commission approval published March 29, 2018***
31-103	Registration Requirements, Exemptions and Ongoing Registrant Obligations – Amendments	***Commission approval published March 29, 2018***
11-206	Process for Cease to be a Reporting Issuer Applications - Amendments	***Commission approval published March 29, 2018***
72-503	Distributions Outside Canada – Amendments	***Commission approval published March 29, 2018***
72-503CP	Distributions Outside Canada – Amendments	***Commission approval published March 29, 2018***
31-103	Registration Requirements, Exemptions and Ongoing Registrant Obligations – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
33-109	Registration Information – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
41-101	General Prospectus Requirements – Amendments	***Commission approval published March 29, 2018***
44-101	Short Form Prospectus Distributions – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
44-102	Shelf Distributions – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
45-106	Prospectus Exemptions – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
51-102	Continuous Disclosure Obligations – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***

New Instruments

Instrument	Title	Status
81-102	Investment Funds – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
81-106	Investment Fund Continuous Disclosure – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
21-101CP	Marketplace Operation – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
81-102CP	Investment Funds – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***
33-506	(Commodity Futures Act) Registration Information – Amendments (Related to Designated Rating Organizations)	***Commission approval published March 29, 2018***

For further information, contact:

Darlene Watson
Project Specialist
Ontario Securities Commission
416-593-8148

April 12, 2018

1.1.2 CSA Staff Notice 61-303 and Request for Comment – Soliciting Dealer Arrangements

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Staff Notice 61-303 and Request for Comment
Soliciting Dealer Arrangements

April 12, 2018

Introduction

This notice outlines certain issues that staff of the Canadian Securities Administrators (**CSA**) have identified with respect to the use of soliciting dealer arrangements. Staff are publishing this notice for a 60-day comment period to better understand these arrangements to aid the CSA in assessing whether any additional guidance or rules in respect of those arrangements would be appropriate. In addition to any general comments, we also invite comments on the specific questions set out at the end of the notice.

Substance and Purpose

(a) Soliciting dealer arrangements

"Soliciting dealer arrangements" generally refer to agreements entered into between issuers and one or more registered investment dealers under which the issuer agrees to pay to the dealers a fee for each security successfully solicited from securityholders to: (i) vote in connection with a matter requiring securityholder approval, or (ii) tender securities in connection with a take-over bid. These arrangements may also be used to incentivize dealers to contact securityholders to participate in a rights offering or exercise rights to redeem or convert securities, or otherwise in connection with corporate transactions to attain the requisite quorum for amendments to documents affecting the rights of securityholders.

The fees for soliciting dealer arrangements are typically subject to a minimum or maximum. In a number of cases, the payment of any fee is contingent on "success" and/or only if a securityholder votes in a particular manner (e.g., only "for" or only "against" a transaction).

(b) Use of soliciting dealer arrangements

Recently, there have been instances of soliciting dealer arrangements in connection with contested director elections, the most prominent examples being the 2013 proxy contest initiated by JANA Partners LLC for Agrium Inc. and the 2017 proxy contest initiated by PointNorth Capital Inc. for Liquor Stores N.S. Ltd. In each of those proxy contests, the issuer made payments to soliciting dealers only for votes cast in favour of the election of its own incumbent nominee directors and the soliciting dealer fees would only be paid if the incumbent slate was elected.

We understand that the use of soliciting dealer arrangements is not uncommon in take-over bids and plan of arrangement transactions. In a take-over bid transaction, the bidder may retain a dealer manager to form a group of soliciting dealers who receive compensation for soliciting securityholders to tender to the bid. In a plan of arrangement, either the target or the purchaser may pay the soliciting dealers a fee per security for securities voted in favour of the transaction.

One rationale that issuers have given for entering into soliciting dealer arrangements is that it may be difficult to reach out to, and communicate directly with, retail investors who are objecting beneficial owners (**OBOs**) under National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (**NI 54-101**). While proxy solicitation firms retained by an issuer may be able to communicate with non-objecting beneficial owners, and may have insights with respect to holdings by significant holders, they are not able to contact retail OBOs.

(c) IIROC rules

Rule 42 *Conflicts of Interest* (**Rule 42**) of the Investment Industry Regulatory Organization of Canada (**IIROC**) imposes obligations on each "Approved Person" and each "Dealer Member", in the event an existing or potential material conflict of interest has been identified. While IIROC indicates that its rules do not create a fiduciary standard, its rules do require that any material conflict be considered and addressed in a "fair, equitable and transparent manner, and consistent with the best interest of the client or clients". If the material conflict of interest cannot be addressed in this manner, Rule 42 provides that the conflict

must be avoided. Where a conflict has not been avoided, it must be disclosed to the client in all cases where a reasonable client would expect to be informed. However, IIROC guidance indicates disclosure alone does not resolve a conflict.

(d) Canadian proxy solicitation rules

National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) prohibits any person or company from engaging in proxy solicitation without mailing to securityholders a proxy circular containing prescribed information. "Solicit" is defined broadly to include "requesting a securityholder to execute or not execute a form of proxy" and "sending other communication to a securityholder under circumstances that to a reasonable person will likely result in the giving, withholding or revocation of a proxy".

NI 51-102 provides certain exclusions from the definition of "solicit", such as

- performing ministerial or professional services on behalf of a person or company soliciting a proxy;
- sending, by an intermediary as defined in NI 54-101, the documents referred to in NI 54-101; and
- communicating, *provided that the communication is not a solicitation by or on behalf of management of the reporting issuer* [emphasis added], with securityholders as clients, by a person or company who gives financial, corporate governance or proxy voting advice in the ordinary course of business, provided that
    - the person or company discloses to the securityholder any significant relationship with the reporting issuer and any material interests the person or company has in relation to a matter on which advice is given,
    - the person or company only receives a special commission or remuneration from the recipients of the advice, and
    - the advice is not given by or on behalf of any person or company soliciting proxies.

(e) Regulatory issues with soliciting dealer arrangements

Soliciting dealer arrangements raise certain securities regulatory issues. From the perspective of the dealer, they raise issues respecting appropriate management of conflicts of interest as well as risks associated with potential solicitations of proxies. From the perspective of the issuer, soliciting dealer arrangements raise public interest-related questions as to whether those arrangements affect the integrity of the tendering process or securityholder vote, including by potentially being used to entrench the board and management.

Request for Comments

We welcome your comments and feedback on the use of soliciting dealer arrangements. In addition to any general comments you may have, we also invite comments on the following specific questions.

General

1. In what circumstances are soliciting dealer arrangements most typically used?
2. What are the principal reasons for entering into soliciting dealer arrangements?
3. Are soliciting dealer arrangement fees typically only paid in respect of votes "for" management's recommendations? Is that appropriate in all circumstances? Is there a reason to distinguish proxy contests in this regard?
4. Are soliciting dealer arrangements important to the ability of issuers to contact retail OBOs?

Investment dealers and dealing representatives

5. Do you think that the potential conflict of interest on the part of an investment dealer or a dealing representative can be effectively managed?
    a. If so, what steps should an investment dealer take to appropriately manage or avoid the conflict of interest? What steps should a dealing representative take, beyond disclosure, to appropriately manage or avoid the conflict of interest?

b. Does the answer differ depending on whether the transaction is

i. a take-over bid tender,

ii. a securityholder vote in relation to a merger or acquisition transaction,

iii. a securityholder vote to amend the terms of a security, or

iv. a securityholder vote in the context of a proxy contest?

c. In the context of a securityholder vote in relation to a merger and acquisition transaction, does the answer to #5 differ depending on whether the fee is contingent on the securityholder voting in favour of the transaction and/or the transaction being approved?

d. In the context of a proxy contest, does the answer to #5 differ if the fee is contingent on the securityholder voting in favour of management's nominees and/or management's nominees being elected?

e. What type of communication and disclosure by investment dealers and dealing representatives should be made to the securityholder respecting the existence of a soliciting dealer arrangement?

6. Do you think that there are circumstances in which it would never be appropriate for an investment dealer to enter into a soliciting dealer arrangement? If so, please discuss what such circumstances would be.

7. Are soliciting dealer fees paid to investment dealers and/or dealing representatives in connection with securities held in managed accounts? If so, in what circumstances?

8. How can investment dealers and dealing representatives participating in a soliciting dealer arrangement in respect of a proxy contest ensure compliance with the proxy solicitation rules?

9. Are investment dealers and/or dealing representatives involved in proxy contests where a proxy solicitation firm has been retained?

10. Do you believe that an investment dealer or a dealing representative has a responsibility to encourage its client to respond to proxy solicitations, rights offerings, take-over bids or other corporate transactions such as conversion of convertible securities?

Issuers

11. Are there circumstances in which you think it would be contrary to the public interest or inconsistent with a board of directors' fiduciary duties for an issuer to

a. enter into a soliciting dealer arrangement?

b. retain a proxy solicitation firm?

If so, please discuss what such circumstances would be.

12. Can a board of directors comply with its fiduciary duties if it pays soliciting dealer fees for all votes, including votes that are contrary to the board's recommendation as to what is in the best interests of the corporation?

13. Are there particular transactions which give rise to more or less concern with respect to the use of soliciting dealer arrangements, e.g.,

a. a take-over bid tender,

b. a securityholder vote in relation to a merger and acquisition transaction,

c. a securityholder vote in relation to a merger and acquisition transaction, where the fee is contingent on the securityholder voting in favour of the transaction and/or the transaction being approved,

d. a securityholder vote in the context of a proxy contest, or

e. a proxy contest, where the fee is contingent on the securityholder voting in favour of management's nominees and/or management's nominees being elected.

14. What type of communication and disclosure should an issuer make to securityholders respecting the existence of a soliciting dealer arrangement?

Please submit your comments in writing on or before June 11, 2018. If you are not sending your comments by email, please send a CD containing the submissions (in Microsoft Word format).

Address your submission to all members of the CSA as follows:

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Financial and Consumer Services Commission (New Brunswick)
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Ontario Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Please deliver your comments *only* to the addresses below. Your comments will be distributed to the other participating members of the CSA.

Christopher Peng
Legal Counsel, Corporate Finance
Alberta Securities Commission
Suite 600, 250 – 5th Street SW
Calgary, Alberta T2P 0R4
christopher.peng@asc.ca

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
comment@osc.gov.on.ca

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, rue du Square-Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal, Québec H4Z 1G3
consultation-en-cours@lautorite.qc.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Ontario Securities Commission at www.osc.gov.on.ca and the Autorité des marchés financiers (www.lautorite.qc.ca). Therefore, if you do not want it published, you should not include personal information directly in your comments. It is important that you state on whose behalf you are making the submission.

Questions

Please refer your questions to any of the following:

Christopher Peng
Legal Counsel, Corporate Finance
Alberta Securities Commission
(403) 297-4230
christopher.peng@asc.ca

Denise Weeres
Manager, Legal, Corporate Finance
Alberta Securities Commission
(403) 297-2930
denise.weeres@asc.ca

Jason Koskela
Manager, Office of Mergers & Acquisitions
Ontario Securities Commission
(416) 595-8922
jkoskela@osc.gov.on.ca

Jordan Lavi
Legal Counsel, Office of Mergers & Acquisitions
Ontario Securities Commission
(416) 593-8245
jlavi@osc.gov.on.ca

Alexandra Lee
Senior Policy Advisor
Direction du financement des sociétés
Autorités des marchés financiers
514 395-0337 1 877 525-0337, ext. 4465
alexandra.lee@lautorite.qc.ca

Gordon Smith
Acting Manager, Legal Services
British Columbia Securities Commission
(604) 899-6656
gsmith@bcsc.bc.ca

Sonne Udemgba
Deputy Director, Legal
Securities Division, Financial and Consumer Affairs Authority of Saskatchewan
(306) 787-5879
sonne.udemgba@gov.sk.ca

Sophia Mapara
Legal Counsel
The Manitoba Securities Commission, Securities Division
(204) 945-0605
sophia.mapara@gov.mb.ca

1.1.3 CSA Staff Notice 52-329 Distribution Disclosures and Non-GAAP Financial Measures in the Real Estate Industry

CSA Staff Notice 52-329 *Distribution Disclosures and Non-GAAP Financial Measures in the Real Estate Industry* is reproduced on the following separately numbered pages. Bulletin pagination resumes at the end of the Staff Notice.

This page intentionally left blank

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Staff Notice 52-329
Distribution Disclosures and Non-GAAP Financial Measures in the Real Estate Industry

April 12, 2018

Executive Summary

Staff of the Canadian Securities Administrators (**CSA staff** or **we**) recently reviewed two important areas of disclosure for real estate investment trusts (**REITs**) and real estate operating companies (**REOCs**): distributions and non-GAAP financial measures. We reviewed distribution disclosures relative to National Policy 41-201 *Income Trusts and Other Indirect Offerings* (**NP 41-201**) and non-GAAP financial disclosures relative to CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures* (**CSA SN 52-306**). We sought to assess the quality and sufficiency of disclosure provided by real estate issuers relating to the sustainability of their distributions. For non-GAAP financial measures, we reviewed the following:

- adjustments made in arriving at non-GAAP financial measures,
- the prominence of non-GAAP financial measures, and
- the use and reconciliation of non-GAAP financial measures.

Given strong investor interest in this sector and the inherent pressure on issuers to pay distributions, the sustainability of distributions and the accompanying disclosures are important to investors.

The purpose of this notice is to share our review findings and to provide additional guidance for real estate issuers to disclose information that is more useful and transparent to investors.

1. Background and Disclosure Expectations

Distributions

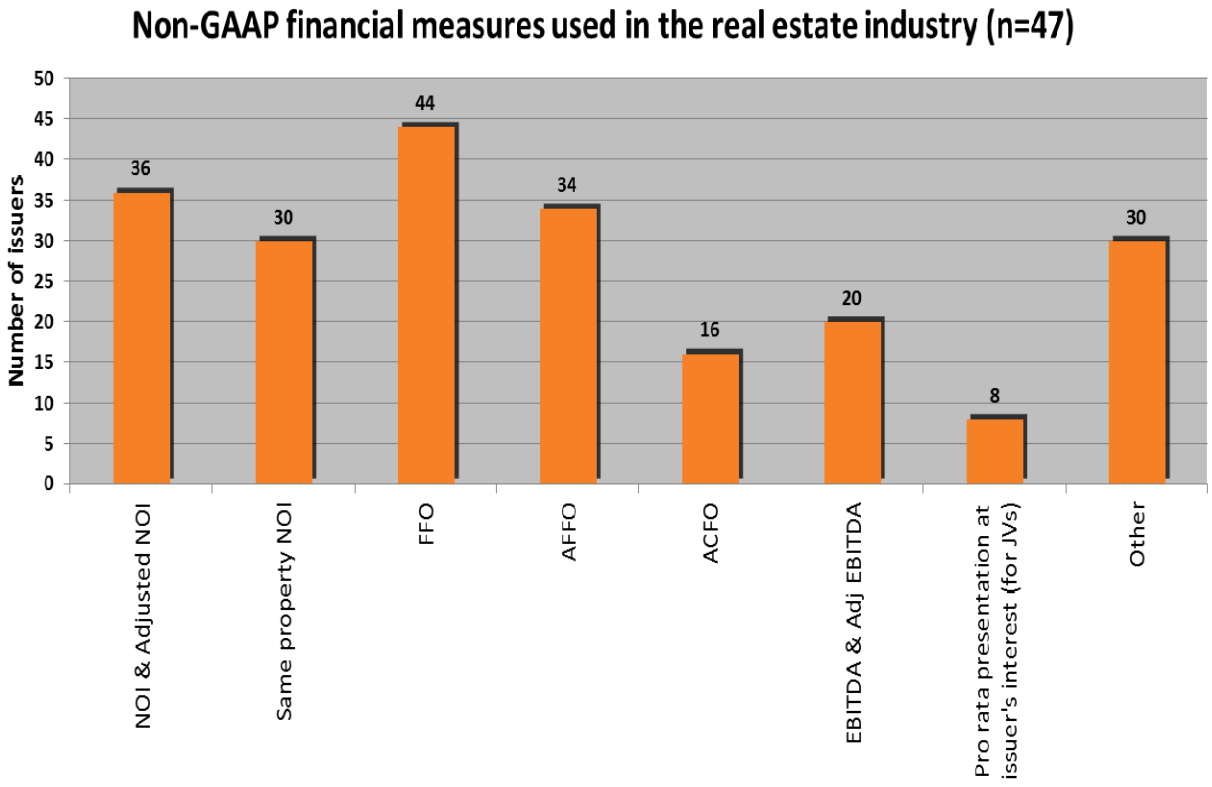
REITs and many REOCs pay out the majority of their income in the form of distributions to their unitholders or shareholders. The opportunity to receive recurring distributions provides investors with an incentive to invest in real estate issuers, and distributions are an important component of the total return. Investors may compare distribution yields across issuers, and as a result, financial measures related to distributions provide important insights in analyzing both available returns and the variability of such returns. The industry uses a variety of financial measures of distributions, both GAAP and non-GAAP, to quantify the sustainability of distributions.

Distribution disclosures are outlined in NP 41-201[1], and also captured in the disclosure requirements for liquidity under the MD&A form requirements (Form 51-102F1 *Management's Discussion & Analysis*).

Non-GAAP Financial Measures

Real estate issuers use a variety of non-GAAP financial measures to explain their operating performance and/or cash flows. These measures include net operating income (**NOI**), earnings before interest, taxes, depreciation and amortization (**EBITDA**), funds from operations (**FFO**), adjusted funds from operations (**AFFO**), adjusted cash flow from operations (**ACFO**) and related distribution payout ratios.

The chart below outlines the frequency of non-GAAP financial measures used by the real estate issuers we reviewed:



1 Although the primary focus of NP 41-201 is income trusts, the principles can apply more generally to issuers that offer securities which entitle holders of those securities to the net cash flow generated by the issuer's business or its properties. The policy rationale therefore applies to REITs and REOCs given their stated objectives to provide shareholders with stable dividends or distributions. Section 2.5 of NP 41-201 refers to "distributable cash", a term which is no longer widely used in the industry. However, section 2.1 of the policy clarifies that the disclosures that should be provided about distributable cash extend to any other non-GAAP financial measure that a REIT or REOC may use to describe the amount of net cash it has generated during the period which is available for distribution (and therefore includes adjusted funds from operations or adjusted cash flow from operations, or any other non-GAAP financial measure of cash flows).

Non-GAAP financial measures can provide investors with supplemental information about an issuer's financial position, financial performance or cash flows. However, investors must have sufficient information to understand what these measures represent, how they are calculated, and how they are useful to investors and management. Concerns arise when issuers present non-GAAP financial measures in a manner that is confusing or potentially misleading, such as when they are inadequately defined or when they obscure GAAP financial measures.

CSA SN 52-306 provides guidance to issuers that choose to disclose non-GAAP financial measures. Given the breadth and volume of non-GAAP financial measures used by issuers, we have recently renewed our focus in this area.

Given the prevalent use of non-GAAP financial measures in this sector, transparent disclosure of these measures is critical.

2. Our Review

We reviewed 47 REITs and REOCs[2] as part of this review. Our review excluded those issuers that did not use non-GAAP financial measures, did not pay distributions, or that had minimal market capitalizations.

We reviewed distribution disclosures and assessed the quality and sufficiency of disclosure provided about the sustainability of distributions. For non-GAAP financial measures, we assessed the disclosure with regard to the adjustments made, the prominence of these measures, and how they were used and reconciled by issuers.[3]

3. Findings

We sent comment letters to 72% of the issuers that we reviewed. Of the issuers that we reviewed, 6% were required to restate MD&A, and 62% agreed to enhance their disclosure prospectively.

Generally, REITs and REOCs provided adequate disclosure about their distributions, except when "excess distributions" were made and in those cases, many issuers did not disclose the sources of cash used to fund the excess.

> ***"EXCESS DISTRIBUTIONS"***
>
> *Excess distributions occur when distributions declared (including distributions in connection with a distribution reinvestment plan) during a period exceed cash flows from operating activities (net of interest paid, even if the interest paid is classified as a financing activity in the statement of cash flows), creating a shortfall. As outlined in section 6.5.2 of NP 41-201, in determining cash flows from operating activities, the issuer should include borrowing costs.*

2 This included the interim and annual filings, as well as the news releases of these issuers.

3 We are aware of the existence of industry guidance relating to FFO, AFFO and ACFO. Our review was focussed solely on compliance with securities obligations.

For non-GAAP financial measures, we found a lack of transparency about the various adjustments made in arriving at non-GAAP financial measures, particularly maintenance capital expenditures and working capital. We also noted instances where non-GAAP financial measures were presented with greater prominence than the most directly comparable measure specified, defined or determined under the issuer's GAAP. Lastly, we observed diversity in how non-GAAP financial measures, particularly AFFO, are used and reconciled by various real estate issuers. We are concerned that these issues have the potential to render non-GAAP financial measures not useful, confusing or misleading.

Part A sets out our findings with respect to "excess distributions" and the sustainability of distributions and Part B sets out our findings for non-GAAP financial measures.

Part A – Distributions

3.1 "Excess distributions" and the sustainability of distributions

We generally found that REITs and REOCs provided adequate MD&A disclosure about their distributions. When "excess distributions" were made, issuers generally followed the guidance in NP 41-201, although some issuers did not compare and discuss their distributions in relation to cash flows from operating activities, as outlined in NP 41-201. Some issuers with "excess distributions" provided boilerplate disclosure, particularly about the sources of funding.

DISCLOSURE GUIDANCE IN NP 41-201:

- ***Section 6.5.2 of NP 41-201***

In situations where issuers are distributing cash in excess of cash flow from operating activities, disclosure should:

  - quantify the "excess distributions" which were funded by sources other than operating activities,
  - acknowledge that a return of capital has been provided, if applicable, and discuss the decision to provide distributions partly representing a return of capital,
  - discuss the specific sources of the excess distributions, including debt or recent equity raise, and
  - discuss the risk factors related to providing distributions in excess of cash flows from operating activities, including whether such distributions are expected to continue, and any impact on the sustainability of future distributions.

- ***Section 2.5 of NP 41-201***

In situations where issuers are presenting a non-GAAP financial measure to describe the amount of net cash it has generated during the period which is available for distribution (this may include cash available for distribution, distributable cash, AFFO, ACFO or other) disclosure should:

  - explain the purpose of the non-GAAP financial measure,
  - reconcile the non-GAAP financial measure to the most comparable GAAP measure (cash flows from operating activities), and
  - explain any changes in the composition of the non-GAAP financial measure.

We found that 45% of real estate issuers had "excess distributions" in the interim reporting period. Of those issuers with "excess distributions", 68% quantified the amount of the excess relative to cash flows

from operating activities.[4] Issuers generally provided disclosure of the reasons for the "excess distributions", and for most, this was due to seasonality in the interim period, the timing of certain payments or working capital fluctuations. The better quality disclosures provided entity-specific explanations for the particular items of working capital which led to the excess, such as leasing costs, taxes or transaction costs. We remind issuers that they should clearly quantify the amount of "excess distributions" relative to cash flows from operating activities in each reporting period.

Some issuers discussed that there was no "excess distributions" when the level of distributions was compared to ACFO or other non-GAAP financial measures. While this type of distribution analysis on a non-GAAP basis may be helpful, and provides insight into how management may view distribution sustainability, issuers should still quantify and explain "excess distributions" consistent with the guidance set out in NP 41-201, with equal or greater prominence.

We found that 67%[5] of the issuers did not disclose a description of the sources of cash used to fund the "excess distributions", or their description was boilerplate. Examples of boilerplate or vague disclosures include the following types of statements:

- These fluctuations could be funded from other sources such as credit facilities, or
- The issuer does not expect distributions to exceed operating cash flows on an annual basis.

When "excess distributions" exist in a period, issuers are reminded that it is not sufficient to simply state that they believe current distributions are sustainable.

The risk profile of an issuer that relies on sources other than operating cash flows to fund distributions, such as capital raising, debt financing or sale of properties, is inherently different than an issuer that funds distributions solely through operating cash flows. We expect the disclosure about distributions to address these risks.

Part B – Non-GAAP Financial Measures

We identified a significant number of disclosures pertaining to non-GAAP financial measures[6] that did not conform to the guidance in CSA SN 52-306 or NP 41-201. These included:

- a lack of transparency and lack of disclosure about the adjustments made in arriving at non-GAAP financial measures such as AFFO,
- a lack of clarity in how management uses each individual non-GAAP financial measure,
- a failure to clearly identify the most directly comparable GAAP measure, and
- non-GAAP financial information being presented more prominently than the GAAP information

4 For the 2016 annual period, 19% of real estate issuers reviewed had "excess distributions", and of those with "excess distributions", 67% quantified the amount of the excess relative to cash flows from operating activities.

5 For the 2016 annual period, 44%.

6 Non-GAAP financial measures are generally found in the MD&A, news releases and investor presentations on issuers' websites.

We are also concerned that some issuers might understate the cost to sustain and maintain their properties.

3.2 Non-GAAP adjustments: maintenance capital expenditures and working capital

For a non-GAAP financial measure to not be confusing or misleading, it is important that investors understand the adjustments being made as part of the reconciliation to the most directly comparable GAAP measure. Issuers should ensure all adjustments are sufficiently explained, including why and how the adjustment was determined. Our review noted many issuers that did not provide sufficient disclosure about the adjustments made in arriving at the AFFO, ACFO and other non-GAAP financial measures presented in the MD&A.

In determining each adjustment, issuers either use amounts presented in the financial statements, or an estimated amount. In situations where an adjustment is an estimate, issuers should provide additional disclosures about how the estimate was determined.

When non-GAAP financial measures are used to describe cash available for distribution, NP 41-201 outlines the relevant guidance about the non-GAAP financial measure and the adjustments and assumptions underlying the measure[7].

Our review mainly focussed on adjustments related to maintenance capital expenditures and working capital. These two adjustments are often material and subject to significant management judgement. Furthermore, these adjustments can also have a direct impact on non-GAAP financial measures used to describe cash available for distribution (for example ACFO), including the related distribution payout ratios. Our review uncovered deficiencies in disclosures of these items, as detailed below.

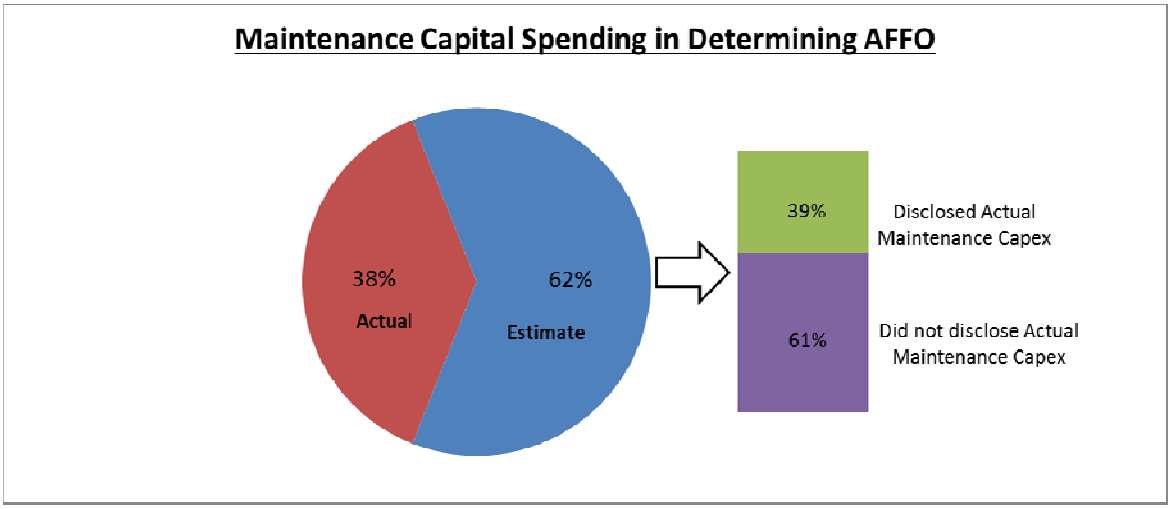
Maintenance capital expenditures

The IFRS accounting treatment for capital expenditures (i.e. the requirement to capitalize or expense certain costs) does not address whether capital expenditures are for sustaining existing capacity or are for future growth (revenue-enhancing). To account for this, an adjustment for maintenance capital expenditure was made by most real estate issuers in reconciling certain non-GAAP financial measures. A maintenance capital spending adjustment (or "maintenance capex" adjustment, as it is commonly known) reflects the amount held back, and therefore not distributed, by the issuer to sustain and maintain their real estate properties in their current state. Any deterioration of a property resulting from not incurring sufficient maintenance capex would impact the property's ability to maintain the same level of revenues, and would ultimately impact distributions.

We observed that there is diversity in practice amongst real estate issuers in *how* the maintenance capital expenditures adjustment is determined and disclosed. The majority of issuers deducted an estimate of capital expenditures using an estimate or reserve, while 38% of real estate issuers deducted actual maintenance capital expenditures in calculating AFFO. Maintenance capital expenditures estimates were determined in a number of different ways: percentage of revenues or net operating income, certain dollar

7 Section 2.7 of NP 41-201.

amounts per square foot, independent estimates, or forward-looking using forecast amounts[8]. **Of the 62% of issuers who used an estimate in determining the capital expenditures adjustment for AFFO, only 39% disclosed a comparison to the actual maintenance capital expenditures**, as shown in the chart below.



For many of the issuers using a maintenance capital expenditures reserve, the reserve was not well explained and it was often unclear from the disclosure how the reserve was determined. In order to provide investors with insight into how the reserve was determined by management, issuers should provide additional disclosure[9] in the MD&A including:

- the method by which management determined the reserve,
- why that method was chosen in determining the reserve and why that method is appropriate,
- how the reserve amount compares to actual maintance capital expenditures in the period and historically, and
- explanation of why management's estimate is more relevant than the actual.

The actual amount of maintenance capital expenditures incurred in a period may not be readily apparent from the issuer's financial statements, as the financial statements do not distinguish between maintenance and growth capital expenditures. Disclosing a comparison between the amount of the estimate used in the derivation of the non-GAAP financial measure and actual historical amounts would provide useful information, and give investors a better understanding of the issuer's business.

We acknowledge that, in some cases, an estimate of maintenance capital expenditures that is normalized or removes seasonality associated with the actual amount spent during a particular short term period may be more reflective of a sustainable amount. It is critical, however, that investors understand how the estimated amount was determined and why it is viewed by management as a more accurate or

8 We remind issuers that forward-looking information is subject to the requirements in Part 4A of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102).

9 Refer to section 2.7 of NP 41-201.

representative amount than the actual. Furthermore, where the maintenance capital expenditure estimate differs materially from the actual amount spent, there may be an impact on the sustainability of the issuer's distribution, which should be discussed.

Some issuers grouped together their estimate for maintenance capital expenditure with other amounts estimated by management, such as tenant inducements, tenant expenditures or leasing costs or incentives. This aggregation further obscures the amount of maintenance capital expenditure from investors, both the actual level and what management views as the appropriate normalized amount. We expect issuers to disaggregate this information in their disclosure in order to provide useful information on the capital expenditure requirements.

In the below example, the maintenance capital expenditure reserve has not been explained in sufficient detail for investors to be able to understand how it was determined (i.e. what percentage of net rental income was used), why this method was chosen or how the normalized amount compares to actual expenditures.

Example #3.2(a) –Disclosure on maintenance capital expenditure reserve used in determining AFFO that did not meet CSA guidance

[1] The maintenance capital expenditure reserve represents the Trust's estimate of normalized maintenance capital and is based on a percentage of net rental income earned.

The below example provides more useful information for users in assessing how management determined what a "normalized" amount is, and provides transparency to a key input which investors may use to assess the issuer's distribution payout ratio.

Example #3.2(a) – Enhanced disclosure on maintenance capital expenditure reserve

[1] In the calculation of AFFO the Trust makes an adjustment for the estimated amount of ongoing capital investment required to maintain the condition of its properties and current revenues. This reserve for normalized maintenance capital expenditure is estimated at 8% of net rental income earned. The 8% assumption is based on an average of historical results over the last 3 years as well as our forecast for the next fiscal year as approved by the Board of Trustees. This estimate will continue to be reassessed in future reporting periods. The table below compares the reserve amount with the actual maintenance capital expenditures over the last 3 fiscal years as well as the current and comparative period, and provides a discussion of the variances.

	Q2 2017	**Q2 2016**	**FY 2016**	**FY 2015**	**FY 2014**
Reserve for normalized maintenance capital expenditure	$2,750	$2,750	$10,000	$7,000	$12,000
Actual maintenance capital expenditure	$3,000	$3,100	$10,000	$9,000	$11,000

Actual maintenance capital expenditure is typically higher in the second and third quarters because of the increased number of maintenance projects undertaken on our properties for suite renovations following suite turnover during the summer. In fiscal 2015, actual maintenance capital expenditure included costs related to property XYZ, which the Trust disposed of at the end of 2015, in the amount of $1,000.

Working capital

Working capital adjustments are often made in determining non-GAAP financial measures used as measures of sustainable cash flow[10]. The intent of a working capital adjustment made by REITs and REOCs in this context is to eliminate fluctuations due to changes in receivables, payables and other working capital items that are not indicative of sustainable cash available for distribution. The amount of the working capital adjustment is subject to management's judgement and the appropriate amount depends on the nature of the business.

Issuers using non-GAAP financial measures other than ACFO as cash flow measures indicative of sustainable cash available for distributions should also be considering working capital adjustments.

A working capital adjustment should be accompanied by the disclosures outlined in section 2.7 of NP 41-201.[11]

We found that for a significant number (69%) of the issuers making a working capital adjustment, the adjustment was the same dollar amount as the change in non-cash working capital reported in the statement of cash flows. In the absence of clarifying disclosure, we questioned this adjustment, as it would appear unusual that the entire change in working capital from a prior period be considered to be inconsistent with sustainable cash flows.

We asked issuers to explain how they determined the working capital adjustment and the amounts that are not indicative of sustainable cash flows, and to explain the process undertaken by management in estimating the level of sustainable working capital.

Examples of working capital items that were adjusted include working capital changes related to: development, prepaid realty taxes and insurance, and accruals related to acquisitions and dispositions. As the nature of the working capital items requiring adjustment depend on the issuer's business, it is important to disclose the details of working capital adjustments to allow investors to better assess and evaluate the impact on sustainable cash flows.

The following example illustrates disclosure which met CSA guidance.

Example #3.2(b) – Working capital adjustment in ACFO

[1] In the calculation of ACFO the Trust makes an adjustment for certain working capital items that are not considered indicative of sustainable economic cash flow available for distribution. Examples include working capital changes relating to developments, prepaid realty taxes and insurance, interest payable and receivable, sales and other indirect taxes payable to or receivable from applicable governments, and transaction cost accruals relating to acquisitions and dispositions of investment properties.

10 In our review, working capital adjustments were primarily made in reconciling cash flows from operating activities to ACFO.

11 The working capital adjustment should be supported by a detailed discussion of the nature of the adjustment, a description of the underlying assumptions used in preparing each element, including how those assumptions are supported, and a discussion of the specific risks and uncertainties that may affect the assumption.

Example #3.2(b) (cont) – Working capital adjustment in ACFO

ACFO continued to include the impact of fluctuations from normal operating working capital, such as changes to net rent receivable from tenants, trade accounts payable and accrued liabilities.

Management analyzes working capital quarterly through a detailed review of all of the working capital balances at the transactional level contained within each general ledger account. Significant individual transactions are reviewed based on management's experience and knowledge of the business, to identify those having seasonal fluctuations if related to sustainable operating cash flows or those transactions that are not related to sustaining operating cash flows.
The table below shows a breakdown of the adjustments for working capital changes used above in the calculation of ACFO:

Working capital changes not indicative of sustaining cash flows available for distributions:	**Current Year**	**Prior Year**
Taxes relating to XYZ Portfolio disposition in prior year	-	$120,000
Transaction cost accrual for dispositions/ acquisitions	7,000	15,000
Prepaid Realty taxes	34,000	50,000
Development project ABC	(10,000)	12,000
Total working capital adjustment for ACFO	**31,000**	**197,000**

As the working capital adjustment is often material, and subject to significant management judgement, issuers should provide additional disclosure in order to provide transparency to investors.

Non-GAAP Adjustments – Potential Impact

The table below illustrates the potential impact on ACFO and the ACFO payout ratio for a REIT under differing approaches to maintenance capital expenditures and working capital. It underscores the importance of clear disclosure for maintenance capital expenditure and working capital adjustments, as these amounts directly impact the distribution payout ratio.

Example #3.2 (c) - Sample ACFO Reconciliations for the six months ended June 30, 2017

	Using actual maintenance capital expenditures and actual changes in working capital per the Financial Statements	Using an estimate of maintenance capital expenditures and changes in sustainable working capital items	Using actual maintenance capital expenditures and an estimate of sustainable working capital
Cash provided by operating activities	**$15,000**	**$15,000**	**$15,000**
Maintenance capital expenditure	($5,000)	($4,000)	($5,000)
Changes in working capital	$8,000	$8,800	$8,800
Other adjustments	$1,500	$1,500	$1,500
ACFO	**$19,500**	**$21,300**	**$20,300**
Distributions	$20,000	$20,000	$20,000
ACFO Payout Ratio (distributions/ACFO)	**102.6%**	**93.9%**	**98.5%**

3.3 Prominence of disclosures of non-GAAP financial measures

Joint Ventures in MD&A

Several real estate issuers use joint ventures to both own and operate real estate assets. Under IFRS 11 *Joint Arrangements*, joint ventures are a type of joint arrangement[12] in which the parties have rights to the net assets of the arrangement. Joint ventures are accounted for using the equity method of accounting in accordance with IAS 28 *Investment in Associates*.

We observed that issuers with joint ventures sometimes present a full set of non-GAAP financial statements in the form of a columnar reconciliation[13] within the MD&A that shows separately their pro-rata share of the interest in joint ventures (**non-GAAP pro-rata financial statements**). This presentation of a full set of non-GAAP financial statements within the MD&A effectively creates a non-GAAP financial measure for each financial statement line item. This presentation effectively unwinds the equity method of accounting required by IFRS 11.

We issued comments when issuers did not present the most directly comparable GAAP measures with equal or greater prominence to the non-GAAP financial measures. In many instances, in addition to the numerical presentation and reconciliation in the form of full non-GAAP pro-rata financial statements noted above, the narrative discussion in the MD&A about the issuer's performance, financial position, and liquidity that ensued was almost entirely focussed on the non-GAAP pro-rata financial results, with little to no discussion of the comparable GAAP metrics. In CSA staff's view, this extensive and pervasive use of non-GAAP financial measures at pro-rata interest makes it difficult for a reader to interpret the financial performance and financial condition relative to the GAAP financial statements. In these situations, where the discussion in the MD&A was pervasively based on non-GAAP metrics at pro-rata interest, without a GAAP discussion presented with equal or greater prominence, we requested issuers to restate prior periods' MD&As in order to provide greater prominence to GAAP measures.

We also issued comments relating to the naming of these non-GAAP financial measures. CSA SN 52-306 states that in order to ensure that a non-GAAP financial measure does not mislead investors, it should be named in a way that distinguishes it from GAAP items. In most instances, issuers presenting non-GAAP pro-rata financial statements did not explicitly name each line item (which is a non-GAAP financial measure) in a way that clearly distinguished it from the comparable GAAP measure. While these issuers did generally indicate elsewhere either narratively or in a footnote that the column of pro-rata numbers are not in accordance with GAAP, in CSA staff's view, the use of GAAP terms in the labelling of the individual line items is nonetheless misleading. This concern is compounded when the MD&A is focussed on the non-GAAP pro-rata financial statement line items which are labelled using the same terms as the GAAP financial statement line items.

Lastly, we required certain issuers to include clarifying disclosure in their MD&A that the issuer does not independently control the unconsolidated joint ventures, and that the presentation of pro-rata assets, liabilities, revenue, and expenses may not accurately depict the legal and economic implications of the

12 IFRS 11 defines a joint arrangement as an arrangement of which two or more parties have joint control.

13 For example, a columnar reconciliation of this type may show the issuer's statement of income as presented in the financial statements, an additional column with amounts related to equity accounted investees for each financial statement line item, and then a total column for each financial statement line item, which is often labelled "Proportionate Share" or "At Issuer's interest".

issuer's interest in the joint ventures.

News Releases

We noted that several issuers gave more prominence to non-GAAP financial measures in news releases than the directly comparable GAAP measures. These news releases focussed heavily on describing the issuer's performance in terms of NOI, FFO, AFFO, and other non-GAAP financial measures without disclosing and discussing the most directly comparable GAAP measures.

We also remind issuers that CSA SN 52-306 applies to disclosures made on issuers' websites, investor presentations or other social media.[14]

3.4 Use of non-GAAP financial measures and reconciliations

Our review focussed on the use and reconciliation of AFFO and ACFO, however the observations may also apply to other non-GAAP financial measures.

AFFO

There continues to be diversity amongst real estate issuers in how AFFO is utilized, with some using it as an earnings measure (35%), and others using it as a cash flow measure (21%), or both (44%). We noted that the MD&A disclosure about the purpose and use of AFFO was often boilerplate.

For greater clarity, the purpose and the use of AFFO (and any other non-GAAP financial measure) is an important factor in considering whether it should be reconciled to net income or cash flows from operating activities, or other GAAP measures. Issuers' disclosures should clearly explain why management calculates and uses AFFO, and the reconciliation provided should be consistent with this intended use. For example, where AFFO (or another non-GAAP financial measure) is discussed primarily as a performance measure used to explain the cash generated by the issuer, its distribution-paying capacity, or the sustainability of distributions, the most directly comparable GAAP measure would be cash flow from operating activities. In determining the most directly comparable GAAP measure, an issuer may also consider the nature, number and materiality of the adjusting items.

An issuer should also consider the most appropriate label for its non-GAAP financial measures. Labeling a measure as AFFO is misleading if the measure excludes normal, recurring operating expenses necessary to operate the issuer's business because "from operations" is included in the acronym "AFFO".

Use of non-GAAP financial measures other than AFFO

Our review noted that issuers are also using a variety of other non-GAAP financial measures such as NOI, adjusted funds available for distribution, normalized FFO, operating FFO, normalized AFFO,

14 Disclosures of non-GAAP financial measures made through social media are also covered by CSA SN 52-306. Refer to CSA Staff Notice 51-348 *Staff's Review of Social Media Used by Reporting Issuers*, for additional details.

ACFO or free cash flow. Issuers should provide appropriate accompanying disclosure with these measures as set out in CSA SN 52-306.

Issuers should also carefully consider the number of non-GAAP financial measures used to "tell their story" in the MD&A, and avoid using multiple non-GAAP financial measures for seemingly the same purpose.

4. Conclusion and Next Steps

The findings of our review indicate that the quality and completeness of disclosure pertaining to non-GAAP financial measures and distributions in the real estate industry need improvement. We remind issuers to review the guidance set out in NP 41-201 and CSA SN 52-306. We also remind issuers to provide appropriate disclosures when they are distributing more cash than they are generating from their operations, and when they are discussing their operating and cash flow performance with non-GAAP financial measures.

We will continue to assess these areas in our continuous disclosure and prospectus reviews. We will also monitor certain issuers to ensure commitments to prospective changes and enhancements requested have been made.

Questions

Please refer your questions to any of the following:

Catalina Miranda
Accountant
Ontario Securities Commission
416-204-8965
cmiranda@osc.gov.on.ca

Sonny Randhawa
Deputy Director
Ontario Securities Commission
416-204-4959
srandhawa@osc.gov.on.ca

Alan Mayede
Senior Securities Analyst
British Columbia Securities Commission
604-899-6546
amayede@bcsc.bc.ca

Michael Moretto
Chief of Corporate Disclosure
British Columbia Securities Commission
604-899-6767
mmoretto@bcsc.bc.ca

Anne Bruchet
Securities Analyst
British Columbia Securities Commission
604-899-6778
ABruchet@bcsc.bc.ca

Anne Marie Landry
Senior Securities Analyst
Alberta Securities Commission
403-297-7907
AnneMarie.Landry@asc.ca

Cheryl McGillivray
Manager, Corporate Finance
Alberta Securities Commission
403-297-3307
Cheryl.McGillivray@asc.ca

Wayne Bridgeman
Deputy Director, Corporate Finance
Manitoba Securities Commission
204-945-4905
Wayne.Bridgeman@gov.mb.ca

Nadine Gamelin
Senior Analyst
Autorité des marchés financiers
514-395-0337 ext.4417
Nadine.Gamelin@lautorite.qc.ca

Hélène Marcil
Chief Accountant and Director
Autorité des marchés financiers
514-395-0337, ext. 4291
helene.marcil@lautorite.qc.ca

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 Mackenzie Financial Corporation – ss. 127, 127.1

FILE NO.: 2018-15

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION

NOTICE OF HEARING
Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: April 6, 2018 at 2:00 p.m.

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

PURPOSE

The purpose of this hearing is to consider whether it is in the public interest for the Commission to approve the Settlement dated April 4, 2018 between Staff of the Commission and Mackenzie Financial Corporation in respect of the Statement of Allegations filed by Staff of the Commission dated April 4, 2018.

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 4th day of April, 2018

"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
MACKENZIE FINANCIAL CORPORATION

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

A. ORDER SOUGHT:

Staff of the Enforcement Branch ("**Enforcement Staff**") of the Ontario Securities Commission (the "**Commission**") requests that the Commission make an order pursuant to subsections 127(1) and (2) and section 127.1 of the *Securities Act*, RSO 1990, c S.5 (the "**Act**") to approve the settlement agreement dated April 4, 2018 between Enforcement Staff and Mackenzie Financial Corporation ("**Mackenzie**").

B. FACTS:

Enforcement Staff makes the following allegations of fact:

1. The Respondent

1. Since February 17, 2012, Mackenzie has been registered with the Commission as an investment fund manager ("**IFM**"). Mackenzie has been registered as an exempt market dealer, a portfolio manager and a commodity trading manager since September 28, 2009, and was previously registered in a number of historical registration categories.

2. Mackenzie's investment fund products are distributed to investors by dealing representatives ("**DRs**") registered with participating dealers, both third party and affiliated dealers.

2. Legislative Framework

3. Subsection 2.1(1) of National Instrument 81-105 *Mutual Fund Sales Practices* ("**NI 81-105**") states, among other things, that no member of the organization of a mutual fund shall, in connection with the distribution of securities of the mutual fund:

   (a) make a payment of money to a participating dealer or a DR;

   (b) provide a non-monetary benefit to a participating dealer or a DR; or

   (c) pay for or make reimbursement of a cost or expense incurred or to be incurred by a participating dealer or a DR.

4. Pursuant to section 1.1 of NI 81-105, a "member of the organization" referred to in subsection 2.1(1) includes the manager of the mutual fund or an IFM (the "**Fund Manager**").

5. Subsection 2.1(2) of NI 81-105 provides the following exceptions to subsection 2.1(1) and allows a Fund Manager to:

   (a) make a payment of money or provide a non-monetary benefit to a participating dealer, or pay for or make reimbursement of a cost or expense incurred or to be incurred by a participating dealer or its DRs, if permitted by Part 3 or 5 of NI 81-105; and

   (b) provide a non-monetary benefit to a DR, if permitted by Part 5 of NI 81-105.

6. Parts 3 and 5 of NI 81-105 set out certain limited circumstances in which Fund Managers are permitted to provide monetary and non-monetary benefits to DRs and participating dealers.

7. Subsection 5.2(e) of NI 81-105 allows a Fund Manager to provide DRs with a non-monetary benefit through attendance at a conference organized by the Fund Manager if, among other things, the costs of the conference are reasonable having regard to the purpose of the conference.

8. Section 5.6 of NI 81-105 allows a Fund Manager to provide DRs with non-monetary benefits of a promotional nature and of minimal value, and to engage in business promotion activities that result in a DR receiving a non-monetary benefit if, among other things, the provision of the benefits and activities is neither so extensive nor so frequent as to cause a reasonable person to question whether the provision of the benefits or activities improperly influence the investment advice given by the DR to his or her clients.

3. Mackenzie's Conduct

(a) Excessive Spending on Business Promotional Activities and Promotional Items

9. Between May 2014 and October 2017, Mackenzie permitted excessive spending on DRs for promotional activities, contrary to section 5.6 of NI 81-105.

10. During the same period, Mackenzie permitted the provision of items to DRs that were not of minimal value and/or were extensive, frequent and/or were not promotional in nature, contrary to section 5.6 of NI 81-105.

(b) Mackenzie Conferences

11. During the period November 2014 to May 2015, Mackenzie hosted six mutual fund sponsored conferences pursuant to section 5.2 of NI 81-105 and provided non-monetary benefits to DRs at the conferences that did not comply with subsection 5.2(e) and section 5.6 of NI 81-105.

(c) Spending Category Not Permitted Under NI 81-105

12. Mackenzie's sales compliance guidelines introduced in December 2014 permitted it to make financial contributions to non-educational participating dealer events which were not permitted under NI 81-105 and from September 2015 to December 2017, Mackenzie made financial contributions to such dealer events.

(d) Controls, Supervision and Books and Records Relating to Sales Practices

13. During the period May 2014 to October 2017, Mackenzie failed to establish and maintain systems of controls and supervision around its sales practices sufficient to provide reasonable assurances that it was complying with its obligations under section 2.1 and Part 5 of NI 81-105.

14. During the period May 2014 to October 2017, Mackenzie failed to maintain adequate books, records and other documents in relation to its sales practices as was reasonably required to demonstrate its compliance with Part 5 of NI 81-105.

C. BREACHES AND CONDUCT CONTRARY TO THE PUBLIC INTEREST:

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

1. Mackenzie did not comply with section 5.6 of NI 81-105 by providing excessive non-monetary benefits to DRs through business promotional activities and through the provision of items resulting in a breach by Mackenzie of section 2.1 of NI 81-105, during the period May 2014 to October 2017;

2. Mackenzie provided non-monetary benefits to participating dealers in the form of contributions to non-educational dealer events which did not meet the requirements of Part 5 of NI 81-105 resulting in a breach by Mackenzie of section 2.1 of NI 81-105, during the period September 2015 to December 2017;

3. Mackenzie did not comply with subsection 5.2(e) and section 5.6 of NI 81-105 by providing excessive non-monetary benefits to DRs at the six conferences it held during the period November 2014 to May 2015, resulting in a breach by Mackenzie of section 2.1 of NI 81-105;

4. Mackenzie failed to establish and maintain adequate systems of controls and supervision around its sales practices during the period May 2014 to October 2017 to ensure compliance with section 2.1 and Part 5 of NI 81-105, in breach of subsection 32(2) of the Act and section 11.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

5. Mackenzie failed to maintain books, records and other documents as were reasonably required to demonstrate its compliance with NI 81-105 in breach of paragraph 3 of subsection 19(1) of the Act, during the period May 2014 to October 2017; and

6. the conduct referred to above is also contrary to the public interest.

DATED this 4th day of April, 2018.

Ontario Securities Commission
20 Queen Street West
Suite 2200
Toronto, Ontario
M5H 3S8

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

Jamie Gibson
Litigation Counsel
Enforcement Branch
Tel: (416) 263-3783
Fax: (416) 593-8321

1.3.2 Muchoki Fungai Simba (also previously known as Henderson MacDonald Alexander Butcher) – ss. 127(1), 127.1

FILE NO.: 2018-6

IN THE MATTER OF
MUCHOKI FUNGAI SIMBA
(also previously known as Henderson MacDonald Alexander Butcher)

AMENDED 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: April 23, 2018 at 11:30 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 Amended Statement of Allegations filed by Staff of the Commission on April 4, 2018.

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 4th day of April, 2018

"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
MUCHOKI FUNGAI SIMBA
(also previously known as Henderson MacDonald Alexander Butcher)

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

A. ORDER SOUGHT

Staff of the Enforcement Branch of the Ontario Securities Commission ("**Enforcement Staff**") request that the Commission make the following orders:

1. that trading in any securities or derivatives by Muchoki Fungai Simba, also previously known as Henderson MacDonald Alexander Butcher (the "**Respondent**"), cease permanently or for such period as is specified by the Commission, pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the "**Act**");

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

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

4. that the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

5. that the Respondent be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

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

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

8. that the Respondent pay the costs of the Commission investigation and the hearing, pursuant to section 127.1 of the Act; and

9. such other order as the Commission considers appropriate in the public interest.

B. FACTS

Enforcement Staff make the following allegations of fact:

(a) Overview

1. This proceeding involves a former registrant who engaged in unregistered trading and advising in securities in the account of a retired person.

2. Between January 6, 2014 and March 16, 2015 (the "**Material Time**"), the Respondent purchased and sold securities in the Locked-in Retirement Account ("**LIRA Account**") of H.B. at Scotia iTRADE. The Respondent entered over 440 buy/sell orders in the LIRA Account during the Material Time.

3. During the Material Time, H.B. relied on the Respondent to make and execute all investment decisions relating to the funds in his LIRA Account. Pursuant to a verbal agreement between the Respondent and H.B., the Respondent had unfettered access to and complete discretionary trading authority over H.B.'s LIRA Account.

4. The Respondent's activities during the Material Time resulted in a total loss of $56,009.26 in H.B.'s LIRA Account. To date, the Respondent has paid H.B. $5,000.00 as compensation for his losses.

5. In the course of his conduct, the Respondent failed to comply with the registration requirements of Ontario securities law and, in doing so, breached a cornerstone of the regulatory framework of the Act. The registration requirements serve important gate-keeping and investor protection functions by ensuring that only properly qualified and suitable persons are permitted to engage in the business of trading and advising in securities.

(b) The Respondent

6. The Respondent is, and was during the Material Time, a resident of Ontario.

7. During the Material Time, the Respondent was not registered with the Commission in any capacity.

8. From 1998 to November 2009, the Respondent was a mutual fund and insurance salesperson with Canfin Magellan Investments Inc. ("**Canfin**"). From about 1999 to 2003, H.B. was a client of the Respondent at Canfin.

9. On February 20, 2012, the Mutual Fund Dealers Association (the "**MFDA**") issued an order permanently prohibiting the Respondent from conducting securities related business in any capacity while in the employ of or associated with any member of the MFDA.

10. The Respondent was not registered with the Commission in any capacity during the Material Time.

(c) Conduct at Issue

11. In the fall of 2013, H.B. contacted the Respondent to invest his retirement funds from the Pension Plan of the Canadian YMCA. At the time, H.B. was not aware that the Respondent was no longer employed by Canfin or had been sanctioned by the MFDA.

12. The Respondent agreed to invest H.B.'s retirement funds. H.B. agreed to compensate the Respondent based on the performance of the investments the Respondent would make on his behalf, although the Respondent was never paid.

13. In November 2013, the Respondent helped H.B. open a LIRA Account at Scotia iTRADE. In the same month, the Respondent helped H.B. transfer his retirement funds, totalling $94,760.84, to his LIRA Account.

14. At around the same time, the Respondent also helped H.B. open a tax-free savings account ("**TFSA Account**") at Scotia iTRADE. Although H.B. requested that the Respondent transfer $20,000 from the retirement funds to the TFSA Account, the TFSA Account was never used or funded. However, more than $20,000 in cash was maintained in H.B.'s LIRA Account until December 2014.

15. During the Material Time, the Respondent had unfettered access to H.B.'s LIRA Account through the online platform at Scotia iTRADE. Using the online platform, the Respondent entered over 440 buy/sell orders in H.B.'s LIRA Account. Approximately 230 buy/sell orders were made with respect to options while the remainder related to shares of publicly listed companies.

16. No other person, including H.B., purchased or sold securities through the LIRA Account during the Material Time.

17. During the Material Time, the Respondent had complete discretionary trading authority over H.B.'s LIRA Account. H.B. had little role, if any, in the investment decision-making process. H.B. relied on the Respondent to make and execute all investment decisions relating to his LIRA Account. The Respondent made the ultimate decision regarding all investments in H.B.'s LIRA Account.

18. On March 4, 2015, when contacted by H.B. about withdrawing $20,000 from the TFSA Account, the Respondent stated that he pressed a wrong button and that all the money just disappeared. In fact, the LIRA Account did not have sufficient funds to satisfy the proposed withdrawal due to the Respondent's trading activities. H.B. subsequently learned that the Respondent had left Canfin and was sanctioned by the MFDA.

19. The Respondent's conduct during the Material Time led to a total loss of $56,009.26 in H.B.'s LIRA Account.

20. During the Material Time, the Respondent was not registered with the Commission in any capacity.

21. To date, the Respondent has paid H.B. a total of $5,000.00 as compensation for the losses he incurred in H.B.'s LIRA Account.

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

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

1. the Respondent engaged in, or held himself out as engaging in, the business of trading in securities without being registered to do so, and where no exemption to the registration requirement of Ontario securities law was available, contrary to subsection 25(1) of the Act; and

2. the Respondent engaged in, or held himself out as engaging in, the business of advising with respect to investing in, buying or selling securities without being registered to do so, and where no exemption to the registration requirement of Ontario securities law was available, contrary to subsection 25(3) of the Act.

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

DATED at Toronto, March 29, 2018.

Alvin Qian
Litigation Counsel
Enforcement Branch
Tel: (416) 263-3784
Lawyer for Staff of the Ontario Securities Commission

1.5 Notices from the Office of the Secretary

1.5.1 Sital Singh Dhillon

FOR IMMEDIATE RELEASE
April 4, 2018

SITAL SINGH DHILLON

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

A copy of the Reasons and Decision dated April 3, 2018 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)

1.5.2 Mackenzie Financial Corporation

FOR IMMEDIATE RELEASE
April 4, 2018

MACKENZIE FINANCIAL CORPORATION,
File No. 2018-15

TORONTO – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Mackenzie Financial Corporation in the above named matter.

The hearing will be held on April 6, 2018 at 2:00 p.m. on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Notice of Hearing dated April 4, 2018 and Statement of Allegations dated April 4, 2018 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 Muchoki Fungai Simba (also known as Henderson MacDonald Alexander Butcher)

FOR IMMEDIATE RELEASE
April 4, 2018

MUCHOKI FUNGAI SIMBA (also known as Henderson MacDonald Alexander Butcher), File No. 2018-6

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

A copy of the Reasons and Decision and Order dated April 4, 2018 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)

1.5.4 Muchoki Fungai Simba (also previously known as Henderson MacDonald Alexander Butcher)

FOR IMMEDIATE RELEASE
April 5, 2018

MUCHOKI FUNGAI SIMBA (also previously known as Henderson MacDonald Alexander Butcher), File No. 2018-6

TORONTO – The Office of the Secretary issued an Amended Notice of Hearing on April 4, 2018 setting the matter down to be heard on April 23, 2018 at 11:30 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.

A copy of the Amended Notice of Hearing dated April 4, 2018 and Amended Statement of Allegations dated March 29, 2018 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)

1.5.5 USI Tech Limited et al.

FOR IMMEDIATE RELEASE
April 5, 2018

USI TECH LIMITED,
ELEANOR PARKER AND
CASEY COMBDEN,
File No. 2018-8

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

A copy of the Order dated April 5, 2018 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.6 Mackenzie Financial Corporation

FOR IMMEDIATE RELEASE
April 6, 2018

MACKENZIE FINANCIAL CORPORATION,
File No. 2018-15

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 Mackenzie Financial Corporation.

A copy of the Order dated April 6, 2018 and Settlement Agreement dated April 4, 2018 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)

1.5.7 Crystal Wealth Management System Limited et al.

FOR IMMEDIATE RELEASE
April 9, 2018

CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED, CLAYTON SMITH, CLJ EVEREST LTD, 1150752 ONTARIO LIMITED, CRYSTAL WEALTH MEDIA STRATEGY, CRYSTAL WEALTH MORTGAGE STRATEGY, CRYSTAL ENLIGHTENED RESOURCE & PRECIOUS METAL FUND, CRYSTAL WEALTH MEDICAL STRATEGY, CRYSTAL WEALTH ENLIGHTENED FACTORING STRATEGY, ACM GROWTH FUND, ACM INCOME FUND, CRYSTAL WEALTH HIGH YIELD MORTGAGE STRATEGY, CRYSTAL ENLIGHTENED BULLION FUND, ABSOLUTE SUSTAINABLE DIVIDEND FUND, ABSOLUTE SUSTAINABLE PROPERTY FUND, CRYSTAL WEALTH ENLIGHTENED HEDGE FUND, CRYSTAL WEALTH INFRASTRUCTURE STRATEGY, CRYSTAL WEALTH CONSCIOUS CAPITAL STRATEGY and CRYSTAL WEALTH RETIREMENT ONE FUND

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

1. pursuant to subsection 127(8) of the Act, the Temporary Order is extended until July 5, 2018, or until further order of the Commission, without prejudice to the right of any of the parties to seek to vary the Temporary Order on application to the Commission; and

2. the hearing of this matter is adjourned until July 4, 2018 at 10:00 a.m. or such other date and time as provided by the Office of the Secretary and agreed to by the parties.

A copy of the Order dated April 9, 2018 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.8 USI Tech Limited et al.

FOR IMMEDIATE RELEASE
April 9, 2018

USI TECH LIMITED, ELEANOR PARKER AND CASEY COMBDEN, File No. 2018-8

TORONTO – Staff of the Ontario Securities Commission filed an Amended Application of Staff pursuant to an Order of the Commission dated April 5, 2018 with the Office of the Secretary in the above noted matter.

A copy of the Amended Application of Staff dated April 6, 2018 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)

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

FOR IMMEDIATE RELEASE
April 9, 2018

DENNIS L. MEHARCHAND and
VALT.X HOLDINGS INC.

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

A copy of the Order dated April 9, 2018 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)

This page intentionally left blank

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Lionguard Capital Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the conflict of interest restrictions in the Securities Act (Ontario) to permit fund-on-fund structures involving between pooled funds under common management subject to conditions.

Applicable Legislative Provisions

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

March 27, 2018

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
LIONGUARD CAPITAL MANAGEMENT INC.
(the Filer)

AND

IN THE MATTER OF
THE TOP FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on its behalf and on behalf of LionGuard Opportunities Trust Fund (the **Initial Top Fund**) and any other investment fund which is not a reporting issuer under the securities legislation of the principal regulator (the **Legislation**) and may be established and managed by the Filer in the future (together with the Initial Top Fund, the **Top Funds**), which invests its assets in LionGuard Opportunities Fund LP (the **Initial Underlying Fund**) or any other investment fund which is not a reporting issuer and may be managed by the Filer in the future (together with the Initial Underlying Fund, the **Underlying Funds**), for a decision under the Legislation exempting the Filer and the Top Funds from the restriction in the Legislation which prohibits:

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

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

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

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

has a significant interest; and

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

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

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

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta.

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation existing under the laws of Canada with its head office in Montreal, Québec.

2. The Filer is registered under the Ontario Act (and under the *Securities Act* (Québec)) as an adviser in the category of portfolio manager, as an exempt market dealer and as an investment fund manager. The Filer is also registered as an adviser in the category of portfolio manager and as an exempt market dealer under the securities legislation of British Columbia and Alberta.

3. The Ontario Securities Commission has been chosen as principal regulator for purposes of the application, pursuant to Subsection 3.6(8) of National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* (**NP 11-203**) and Section 4.5 of MI 11-102. The Requested Relief is only required in Ontario and Alberta, but is not required in Québec, even though the Filer's head office is located there. Pursuant to the factors outlined in Paragraph 3.6(10)(d) of NP 11-203, Ontario is the jurisdiction with which the Filer has the most significant connection as the Initial Top Fund is formed under the laws of Ontario and it is anticipated that many more investors in the Initial Top Fund will be resident in Ontario than in Alberta.

4. The Filer is not a reporting issuer in any jurisdiction in Canada and is not in default of securities legislation of any jurisdiction in Canada.

5. The Filer is or will be the portfolio adviser and the investment fund manager for the Top Funds and the Underlying Funds. Each of the Top Funds and the Underlying Funds is or will be established under the laws of Ontario, Québec or another jurisdiction of Canada. The Filer also acts as the exempt market dealer for the distribution of securities of the Top Funds and the Underlying Funds.

6. An officer and director of the Filer owns over 20% of the voting securities of the Filer and accordingly is a "substantial securityholder" (as those words are defined in s. 110(2)(b) of the Ontario Act and s. 184(1)(c) of the Alberta Act) of the Filer. In addition, such individual also owns over 20% of the voting securities of the general partner of the Initial Underlying Fund and accordingly is a "substantial securityholder" of the Initial Underlying Fund. It is anticipated a similar ownership structure would be used for Future Underlying Funds. Officers and directors of the Filer are now also holders of certain limited partnership units in the Initial Underlying Fund, and, in the future, officers and directors of the Filer may also be, directly or indirectly, limited partners of other limited partnerships that may be the Future Underlying Funds. As limited partners of such limited partnerships, such officers and directors of the Filer may have a significant interest in the Underlying Funds.

Top Funds

7. The Initial Top Fund is an investment trust that was established under the laws of Ontario on March 8, 2018. The future Top Funds will be structured as trusts under the laws of Ontario or another jurisdiction of Canada.

8. The Filer is the trustee of the Initial Top Fund. The Filer or a third party will act as trustee of a Top Fund.

9. The securities of each Top Fund are or will be sold solely to investors pursuant to exemptions from the prospectus requirements in accordance with National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**).

10. Each of the Top Funds will be a "mutual fund" as defined in securities legislation of the jurisdictions in which the Top Funds are distributed.

11. An investment by a Top Fund in an Underlying Fund is, or will be, compatible with the investment objectives of the Top Fund. The investment strategy for a Top Fund will be to invest substantially all of its assets in an Underlying Fund.

12. The investment objective of the Initial Top Fund is to seek to maximize returns on its capital. The investment strategy for the Initial Top Fund is to invest substantially all of its assets in the Initial Underlying Fund.

13. None of the Top Funds will be a reporting issuer in any jurisdiction of Canada.

Underlying Funds

14. The Initial Underlying Fund is a limited partnership established under the laws of Québec by an agreement dated June 20, 2014. The future Underlying Funds will be structured as limited partnerships under the laws of Québec or another jurisdiction of Canada.

15. The general partner of the Initial Underlying Fund is LionGuard Opportunities GP Inc., an affiliate of the Filer. The general partner of each future Underlying Fund will be an affiliate of the Filer.

16. Each of the Underlying Funds has, or will have, separate investment objectives and investment strategies. The investment objective of the Initial Underlying Fund is to generate attractive total absolute returns through investments in mainly small and medium capitalization North American companies. In order to achieve investment objectives of the Initial Underlying Fund, the Filer employs investment strategies which include managing an investment portfolio of mainly long and short equity positions of publicly-traded securities.

17. In Canada, securities of each Underlying Fund are, or will be, sold solely to investors pursuant to exemptions from the prospectus requirements in accordance with NI 45-106.

18. Each of the Underlying Funds is, or will be, a "mutual fund" as defined in securities legislation of the jurisdictions in which the Top Funds are distributed.

19. Each Underlying Fund has, or is expected to have, other investors in addition to the Top Fund.

20. None of the Underlying Funds is, or will be, a reporting issuer in any jurisdiction of Canada.

21. The Initial Underlying Fund is not in default of securities legislation of any jurisdiction of Canada.

Fund-on-Fund Structure

22. As a limited partnership, securities of the Initial Underlying Fund are not qualified investments under the *Income Tax Act* (Canada) for registered plans and tax-free savings accounts.

23. A Top Fund will allow its investors to obtain indirect exposure to the investment portfolio of an Underlying Fund and its respective investment strategies through, primarily direct investments by the Top Fund in securities of the Underlying Fund (the **Fund-on-Fund Structure**).

24. Unlike the Initial Underlying Fund, which is a limited partnership, the Initial Top Fund is organized as a trust for the purpose of accessing a broader base of investors, including registered plans and tax-free savings accounts, and other investors that may not wish to invest directly in a limited partnership.

25. The Fund-on-Fund Structures involving Future Top Funds and Future Underlying Funds will be similarly structured.

26. Any investment by a Top Fund in an Underlying Fund will be aligned with the investment objectives, investment strategy, risk profile and other principal terms of the Top Fund.

27. An investment in an Underlying Fund by a Top Fund will be effected at an objective price and on the same basis as other investments in the Underlying Fund. According to the Filer's policies and procedures, an objective price for this purpose, will be the net asset value (**NAV**) per security of the applicable class or series of the applicable Underlying Fund.

28. Each Underlying Fund will not hold more than 10% of its NAV in illiquid assets (as defined in National Instrument 81-102 *Investment Funds* (**NI 81-102**)). The Underlying Funds will primarily hold publicly-traded securities.

29. The amounts invested, from time to time, in an Underlying Fund by one or more of the Top Funds may exceed 20% of the outstanding voting securities of any single Underlying Fund. Accordingly, each Top Fund could, either alone or together with Future Top Funds, become a substantial securityholder of an Underlying Fund.

30. Upon inception, the Initial Top Fund will not be a substantial securityholder of the Initial Underlying Fund, however, as the assets of the Initial Top Fund grow and it subscribes for more units of the Initial Underlying Fund, it is expected that the Initial Top Fund will become a substantial securityholder of the Initial Underlying Fund.

31. No Underlying Fund will be a Top Fund in a Fund-on-Fund Structure.

32. Each Underlying Fund has, or is expected to have, other investors in addition to the Top Funds.

33. Securities of the Top Funds and their corresponding Underlying Funds have, or will have, matching monthly redemption dates and matching monthly valuation dates.

34. In all cases, the Filer manages, or will manage, the liquidity of each of each Top Fund having regard to the redemption features of the corresponding Underlying Fund(s) to ensure that it can meet redemption requests from investors of the Top Funds.

35. In addition, the Fund-on-Fund Structure may result in a Top Fund investing in an Underlying Fund in which an officer or director of the Filer has a significant interest and/or a Top Fund investing in an Underlying Fund in which a person or company who is a substantial securityholder of the Top Fund or the Filer has a significant interest.

36. Prior to the time of investment, securityholders of a Top Fund will be provided with disclosure with respect to each officer and/or director of the Filer, if any, that has a significant interest in the Underlying Funds through investments made in securities of such Underlying Funds (due to the provision of seed capital and/or ongoing investments from time to time) and that such officer and/or director of the Filer, if any, is also a substantial securityholder of the Filer. Securityholders in a Top Fund will also be advised of the potential conflicts of interest which may arise from such relationships. The foregoing disclosure will be contained in any offering memorandum prepared in connection with a distribution of securities of the Top Fund, or if no offering memorandum is prepared, in another document provided to investors of the Top Fund.

37. Each of the Top Funds and the Underlying Funds that are subject to National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) will prepare annual audited financial statements and interim unaudited financial statements in accordance with NI 81-106 and will otherwise comply with the requirements of NI 81-106, as applicable.

Generally

38. The Filer expects that the assets of each Underlying Fund (and the assets of each Top Fund only if such Top Fund holds securities other than securities of an Underlying Fund) are, or will be, held by an entity that meets the qualifications of section 6.2 of NI 81-102 (for assets held in Canada) or an entity that meets the qualifications of section 6.3 of NI 81-102 (for assets held outside Canada) except that its financial statements may not be publicly available.

39. It is expected that the Top Funds, will only hold cash in a bank account with a bank that meets the qualifications of Part 6 of NI 81-102, and uncertificated securities of the applicable Underlying Fund registered in the name of the relevant Top Fund. To the extent a Top Fund holds assets other than the applicable Underlying Fund, those assets will be held by an entity that meets the qualifications of Part 6 of NI 81-102.

40. In the absence of the Requested Relief, the Top Funds would be constrained by the investment restrictions in Canadian securities legislation in terms of the degree to which they could implement the Fund-on-Fund Structure. Specifically, the Top Funds would be prohibited from: (i) becoming a substantial securityholders of the Underlying Funds, either alone or together with related investment funds; and (ii) a Top Fund investing in an Underlying Fund in

which an officer or director of the Filer has a significant interest and/or a Top Fund investing in an Underlying Fund in which a person or company who is a substantial securityholder of the Top Fund or the Filer, has a significant interest.

41. A Top Fund's investments in an Underlying Fund represent the business judgement of a responsible person uninfluenced by considerations other than the best interests of the investment funds concerned.

Decision

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

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

(a) securities of the Top Funds are distributed in Canada solely pursuant to exemptions from the prospectus requirements under Canadian securities legislation;

(b) the investment by a Top Fund in an Underlying Fund is compatible with the investment objectives of the Top Fund;

(c) an investment in an Underlying Fund by a Top Fund will be effected at an objective price, calculated in accordance with section 14.2 of NI 81-106

(d) a Top Fund will not invest in an Underlying Fund, unless the Underlying Fund complies with the provisions of NI 81-106 that apply to a "mutual fund in Ontario" as defined in the *Securities Act* (Ontario);

(e) no Top Fund will purchase or hold securities of an Underlying Fund unless, at the time of the purchase of securities of the Underlying Fund, the Underlying Fund holds no more than 10% of its NAV in securities of other mutual funds, unless the Underlying Fund:

(i) is a "clone fund" (as defined by NI 81-102),

(ii) purchases or holds securities of a "money market fund" (as defined by NI 81-102), or

(iii) purchases or holds securities that are "index participation units" (as defined by NI 81-102) issued by an investment fund;

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

(g) no sales fee or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of securities of an Underlying Fund that, to a reasonable person, would duplicate a fee payable by an investor in the Top Fund other than brokerage fees incurred for the purchase or sale of an index participation unit issued by an investment fund;

(h) the Filer does not cause the securities of the Underlying Fund held by a Top Fund to be voted at any meeting of holders of such securities, except that the Filer may arrange for the securities the Top Fund holds of the Underlying Fund to be voted by the beneficial owners of securities of the Top Fund who are not the Filer or an officer, director or substantial securityholder of the Filer;

(i) when purchasing and/or redeeming securities of an Underlying Fund, the Filer shall, as investment fund manager of the applicable Top Fund and Underlying Fund, act honestly, in good faith and in the best interests of the Top Fund and Underlying Fund, respectively, and shall exercise the care and diligence that a reasonably prudent person would exercise in comparable circumstances;

(j) the offering memorandum, where available, or other disclosure document of a Top Fund, will be provided to investors in the Top Fund prior to the time of investment and will disclose:

(i) that the Top Fund may purchase securities of the applicable Underlying Fund;

(ii) that the Filer is the investment fund manager and/or portfolio manager of both the Top Fund and the Underlying Fund;

(iii) that the Top Fund may invest all, or substantially all, of its assets in securities of an Underlying Fund;

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

(v) the process or criteria used to select the Underlying Fund, if applicable;

(vi) for each officer, director and/or substantial securityholder of the Filer, or of a Top Fund, that has a significant interest in an applicable Underlying Fund, and officers and directors and substantial securityholders who together in aggregate hold a significant interest in an applicable Underlying Fund, the approximate amount of the significant interest they hold, on an aggregate basis, expressed as a percentage of the applicable Underlying Fund's NAV, and the potential conflicts of interest which may arise from such relationship;

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

(viii) that investors are entitled to receive from the Filer, on request and free of charge, the annual audited financial statements and interim financial reports relating to the Underlying Fund in which the Top Fund invests; and

(k) the Filer shall annually inform investors in a Top Fund of their right to receive from the Filer, on request and free of charge, a copy of the offering memorandum or other similar disclosure document of each Underlying Fund, if available, and the annual audited financial statements and interim financial reports relating to each Underlying Fund in which the Top Fund invests.

"W.M. Furlong"
Commissioner
Ontario Securities Commission

"M. Sandler"
Commissioner
Ontario Securities Commission

2.1.2 CI Investments Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to mutual funds for extension of lapse date of their prospectus for 56 days – Filer will incorporate offering of the mutual funds under the same offering documents as related family of funds when they are renewed – Extension of lapse date will not affect the currency or accuracy of the information contained in the current prospectus.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 62(5).

January 5, 2018

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE JURISDICTION)

AND

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

AND

IN THE MATTER OF
CI INVESTMENTS INC.
(THE FILER)

AND

IN THE MATTER OF
HARBOUR GLOBAL ANALYST FUND,
CAMBRIDGE BALANCED YIELD POOL,
CAMBRIDGE PREMIUM YIELD POOL,
SIGNATURE FLOATING RATE INCOME POOL AND
CAMBRIDGE CANADIAN SHORT-TERM BOND POOL
(THE FUNDS)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the Funds, for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limits for the renewal of the simplified prospectus, fund facts and annual information form of the Funds dated June 1, 2017 (collectively, the **Prospectus**), be extended to those time limits that would apply if the lapse date were July 27, 2018 (the **Requested Relief**).

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

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

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

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 Filer is a corporation incorporated under the laws of Ontario. The Filer's head office is located in Toronto, Ontario.

2. The Filer is registered as follows:

   a. under the securities legislation of all the Jurisdictions as a portfolio manager and exempt market dealer;

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

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

3. The Funds are mutual funds established under the laws of Ontario, and are reporting issuers as defined in the securities legislation of each of the Jurisdictions.

4. Neither the Filer nor the Funds are in default of securities legislation in any of the Jurisdictions.

5. Securities of the Funds are currently qualified for distribution in each of the Jurisdictions under the Prospectus.

6. Pursuant to the Legislation, the lapse date of the Prospectus is June 1, 2018 (the **Lapse Date**). Accordingly, under the Legislation, the distribution of securities of the Funds would have to cease on June 1, 2018, unless: (i) the Funds file a *pro forma* simplified prospectus at least 30 days prior to June 1, 2018; (ii) the final simplified prospectus is filed no later than 10 days after June 1, 2018; and (iii) a receipt for the final simplified prospectus is obtained within 20 days of June 1, 2018.

7. The Filer is the investment fund manager of the Funds and also the investment fund manager of approximately 130 other mutual funds (the **Affiliated Funds**) that currently distribute their securities to the public under a simplified prospectus, fund facts and annual information form (collectively, the **Affiliated Funds' Prospectus**) that has a lapse date of July 27, 2018.

8. Offering the Funds under the same simplified prospectus as the Affiliated Funds' would assist in disseminating information with respect to the Funds and the Affiliated Funds in matters such as switching between the Funds and the Affiliated Funds. The Affiliated Funds also share many common operational and administrative features with the Funds, and combining them in the same simplified prospectus will allow investors to more easily compare their features.

9. It would be impractical to alter and modify all the dedicated systems, procedures and resources required to prepare the renewal Affiliated Funds' Prospectus, and unreasonable to incur the costs and expenses associated therewith, so that the renewal Affiliated Funds' Prospectus can be filed earlier with the renewal Prospectus on or before the current Lapse Date. As the Affiliated Funds' Prospectus is a large document and there is an in-depth internal review process that the Filer undertakes when renewing such document, the Manager would not have sufficient time to finalize and file the pro forma Affiliated Funds' Prospectus by at least 30 days prior to the current Lapse Date.

10. The Filer may make minor changes to the features of the Affiliated Funds as part of the process of renewing the Affiliated Funds' Prospectus. The ability to incorporate the Funds into the Affiliated Funds' Prospectus will ensure that the Filer can make the operational and administrative features of the Funds and the Affiliated Funds consistent with each other, if necessary.

11. Once the Prospectus of the Funds is consolidated with the Affiliated Funds' Prospectus, the Funds will be able to renew their Prospectus on a timeline that allows them to include the most current audited financial information in the Prospectus each year. If the Requested Relief is granted, investors in the Funds would have the benefit of being provided with the Funds' most current audited financial information and financial reporting when reviewing the Prospectus.

12. If the Requested Relief is not granted, it will be necessary to renew the Prospectus of the Funds twice within a short period of time (i.e. 56 days) in order to consolidate the Prospectus with the Affiliated Fund's Prospectus.

13. There have been no material changes in the affairs of the Funds since the date of the Prospectus. Accordingly, the Prospectus represents current information regarding the Funds.

14. Given the disclosure obligations of the Funds, should any material change occur, the Prospectus will be amended as required under the Legislation.

15. The Requested Relief will not affect the accuracy of the information contained in the Prospectus and will therefore not be prejudicial to public interest.

Decision

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

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

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

2.2 Orders

2.2.1 Muchoki Fungai Simba (also known as Henderson MacDonald Alexander Butcher)

FILE NO.: 2018-6

IN THE MATTER OF
MUCHOKI FUNGAI SIMBA (also known as Henderson MacDonald Alexander Butcher)

D. Grant Vingoe, Vice-Chair and Chair of the Panel

April 4, 2018

ORDER

WHEREAS on March 29, 2018, the Ontario Securities Commission (**Commission**) held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, with respect to the First Attendance;

ON HEARING the submissions of Staff of the Commission; no one appearing for Muchoki Fungai Simba, although properly served as appears from the Affidavit of Service of Laura Filice sworn February 13, 2018;

IT IS ORDERED THAT:

1. The First Attendance in this matter shall be adjourned to April 23, 2018 at 11:30 a.m., or on such other date and time as may be agreed by the parties and set by the Office of the Secretary;

2. The Statement of Allegations is to be amended, as attached at Appendix "A", to indicate that Muchoki Fungai Simba is "previously" known as Henderson MacDonald Alexander Butcher; and

3. Any further submissions with respect to amendments to the Statement of Allegations shall also be heard at the First Attendance or on such other date and time as may be agreed by the parties and set by the Office of the Secretary.

"D. Grant Vingoe"

APPENDIX "A"

IN THE MATTER OF
MUCHOKI FUNGAI SIMBA
(also previously known as Henderson MacDonald Alexander Butcher)

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

A. ORDER SOUGHT

Staff of the Enforcement Branch of the Ontario Securities Commission ("**Enforcement Staff**") request that the Commission make the following orders:

1. that trading in any securities or derivatives by Muchoki Fungai Simba, also previously known as Henderson MacDonald Alexander Butcher (the "**Respondent**"), cease permanently or for such period as is specified by the Commission, pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the "**Act**");

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

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

4. that the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

5. that the Respondent be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

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

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

8. that the Respondent pay the costs of the Commission investigation and the hearing, pursuant to section 127.1 of the Act; and

9. such other order as the Commission considers appropriate in the public interest.

B. FACTS

Enforcement Staff make the following allegations of fact:

(a) Overview

1. This proceeding involves a former registrant who engaged in unregistered trading and advising in securities in the account of a retired person.

2. Between January 6, 2014 and March 16, 2015 (the "**Material Time**"), the Respondent purchased and sold securities in the Locked-in Retirement Account ("**LIRA Account**") of H.B. at Scotia iTRADE. The Respondent entered over 440 buy/sell orders in the LIRA Account during the Material Time.

3. During the Material Time, H.B. relied on the Respondent to make and execute all investment decisions relating to the funds in his LIRA Account. Pursuant to a verbal agreement between the Respondent and H.B., the Respondent had unfettered access to and complete discretionary trading authority over H.B.'s LIRA Account.

4. The Respondent's activities during the Material Time resulted in a total loss of $56,009.26 in H.B.'s LIRA Account. To date, the Respondent has paid H.B. $5,000.00 as compensation for his losses.

5. In the course of his conduct, the Respondent failed to comply with the registration requirements of Ontario securities law and, in doing so, breached a cornerstone of the regulatory framework of the Act. The registration requirements serve important gate-keeping and investor protection functions by ensuring that only properly qualified and suitable persons are permitted to engage in the business of trading and advising in securities.

(b) The Respondent

6. The Respondent is, and was during the Material Time, a resident of Ontario.

7. During the Material Time, the Respondent was not registered with the Commission in any capacity.

8. From 1998 to November 2009, the Respondent was a mutual fund and insurance salesperson with Canfin Magellan Investments Inc. ("**Canfin**"). From about 1999 to 2003, H.B. was a client of the Respondent at Canfin.

9. On February 20, 2012, the Mutual Fund Dealers Association (the "**MFDA**") issued an order permanently prohibiting the Respondent from conducting securities related business in any capacity while in the employ of or associated with any member of the MFDA.

10. The Respondent was not registered with the Commission in any capacity during the Material Time.

(c) Conduct at Issue

11. In the fall of 2013, H.B. contacted the Respondent to invest his retirement funds from the Pension Plan of the Canadian YMCA. At the time, H.B. was not aware that the Respondent was no longer employed by Canfin or had been sanctioned by the MFDA.

12. The Respondent agreed to invest H.B.'s retirement funds. H.B. agreed to compensate the Respondent based on the performance of the investments the Respondent would make on his behalf, although the Respondent was never paid.

13. In November 2013, the Respondent helped H.B. open a LIRA Account at Scotia iTRADE. In the same month, the Respondent helped H.B. transfer his retirement funds, totalling $94,760.84, to his LIRA Account.

14. At around the same time, the Respondent also helped H.B. open a tax-free savings account ("**TFSA Account**") at Scotia iTRADE. Although H.B. requested that the Respondent transfer $20,000 from the retirement funds to the TFSA Account, the TFSA Account was never used or funded. However, more than $20,000 in cash was maintained in H.B.'s LIRA Account until December 2014.

15. During the Material Time, the Respondent had unfettered access to H.B.'s LIRA Account through the online platform at Scotia iTRADE. Using the online platform, the Respondent entered over 440 buy/sell orders in H.B.'s LIRA Account. Approximately 230 buy/sell orders were made with respect to options while the remainder related to shares of publicly listed companies.

16. No other person, including H.B., purchased or sold securities through the LIRA Account during the Material Time.

17. During the Material Time, the Respondent had complete discretionary trading authority over H.B.'s LIRA Account. H.B. had little role, if any, in the investment decision-making process. H.B. relied on the Respondent to make and execute all investment decisions relating to his LIRA Account. The Respondent made the ultimate decision regarding all investments in H.B.'s LIRA Account.

18. On March 4, 2015, when contacted by H.B. about withdrawing $20,000 from the TFSA Account, the Respondent stated that he pressed a wrong button and that all the money just disappeared. In fact, the LIRA Account did not have sufficient funds to satisfy the proposed withdrawal due to

the Respondent's trading activities. H.B. subsequently learned that the Respondent had left Canfin and was sanctioned by the MFDA.

19. The Respondent's conduct during the Material Time led to a total loss of $56,009.26 in H.B.'s LIRA Account.

20. During the Material Time, the Respondent was not registered with the Commission in any capacity.

21. To date, the Respondent has paid H.B. a total of $5,000.00 as compensation for the losses he incurred in H.B.'s LIRA Account.

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

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

1. the Respondent engaged in, or held himself out as engaging in, the business of trading in securities without being registered to do so, and where no exemption to the registration requirement of Ontario securities law was available, contrary to subsection 25(1) of the Act; and

2. the Respondent engaged in, or held himself out as engaging in, the business of advising with respect to investing in, buying or selling securities without being registered to do so, and where no exemption to the registration requirement of Ontario securities law was available, contrary to subsection 25(3) of the Act.

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

DATED at Toronto, March 29, 2018.

Alvin Qian
Litigation Counsel
Enforcement Branch
Tel: (416) 263-3784
Lawyer for Staff of the Ontario Securities Commission

2.2.2 USI Tech Limited et al. – s. 127(8)

FILE NO.: 2018-8

IN THE MATTER OF
USI TECH LIMITED,
ELEANOR PARKER AND
CASEY COMBDEN

Timothy Moseley, Vice-Chair and Chair of the Panel

April 5, 2018

ORDER
(Subsection 127(8) of
Securities Act, RSO 1990 c S.5)

WHEREAS on April 5, 2018, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider a motion by Staff of the Commission to extend a temporary order dated February 26, 2018 (the **Temporary Order**);

ON READING the materials filed by Staff, and on hearing the submissions of the representatives for Staff and the respondents,

IT IS ORDERED THAT:

1. Pursuant to subsection 127(8) of *Securities Act*, RSO 1990 c S.5 (the **Act**), paragraphs 1 and 2 of the Temporary Order are extended until July 19, 2018;

2. Any motion by Staff to extend the Temporary Order further shall be heard at 10:00am on July 18, 2018; and

3. Staff shall file and serve an amended application, correcting the spelling of Mr. Combden's name from "COMDBEN" to COMBDEN", on or before April 10, 2018.

"Timothy Moseley"

2.2.3 Dominion Citrus Limited – 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
DOMINION CITRUS LIMITED
(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 defined in subsection 1(1) of the OBCA, and has an authorized capital consisting of an unlimited number of common shares (the **Common Shares**), and an unlimited number of preference shares issuable in series (the **Preference Shares**), of which 20,475,845 Common Shares and no Preference Shares are issued and outstanding as of the date hereof.

2. On January 1, 2006, Dominion Citrus Limited (**Old Dominion**), a predecessor by amalgamation of the Applicant, issued to Dominion Citrus Income Fund interest-bearing participating notes (the **Participating Notes**) in the principal amount of $19,258,000 pursuant to an indenture dated December 31, 2005 with Computershare Trust Company of Canada, such indenture being amended on December 15, 2009 to reduce the interest rate and provide security over assets.

3. The Applicant's head office is located at 165 The Queensway, Suite 302, Toronto, Ontario, M8Y 1H8.

4. The Common Shares were listed for trading on the Toronto Stock Exchange (**TSX**) from March 7, 2001 to January 1, 2006, at which time all of the Common Shares were acquired by Dominion Citrus Income Fund.

5. The Preference Shares were listed for trading on the TSX from March 12, 2003 to February 18, 2016, at which time the Preference Shares were de-listed for failure to meet minimum listing requirements.

6. The Participating Notes have never been listed for trading on any stock exchange or stock quotation platform.

7. On July 29, 2016, Dominion Holding Corporation, the parent company of the Applicant, acquired all of the Participating Notes and all of the Common Shares from Dominion Citrus Income Fund.

8. On November 28, 2017, a special meeting of the shareholders of Old Dominion was held, at which a special resolution was passed approving (i) the acquisition by Dominion Subco Inc. (**Subco**) of all of the 1,021,150 issued and outstanding Series A Preference Shares in the capital of Old Dominion and (ii) the amalgamation of Old Dominion and Subco to continue as the Applicant (collectively, the **Arrangement**).

9. The Arrangement was approved by a final court order of the Ontario Superior Court of Justice (Commercial List) on November 30, 2017.

10. The Arrangement was completed effective as of December 31, 2017 upon filing of Articles of Arrangement certified by the Ministry of Government Services on December 31, 2017.

11. As a result of the Arrangement, all of the issued and outstanding Preference Shares were cancelled.

12. The Applicant has no outstanding securities including debt securities, other than the Common Shares and the Participating Notes.

13. As of the date of this decision, all of the outstanding Common Shares and all of the outstanding Participating Notes are owned by Dominion Holding Corporation.

14. The Applicant has no intention to seek public financing by way of an offering of securities.

15. On February 13, 2018, 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*.

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, Ontario on this 9th day of March, 2018.

"Janet Leiper"
Commissioner
Ontario Securities Commission

"Frances Kordyback"
Commissioner
Ontario Securities Commission

2.2.4 Chicago Mercantile Exchange Inc. et al. – s. 144 of the OSA and ss. 38 and 78 of the CFA

Headnote

Section 144 of the Securities Act (Ontario) (OSA) and sections 38 and 78 of the Commodity Futures Act (Ontario) (CFA) – variation of an order exempting Chicago Mercantile Exchange Inc., Board of Trade of the City of Chicago, Inc., Commodity Exchange, Inc., and New York Mercantile Exchange, Inc. (CMEG Exchanges) from the requirement to be recognized as an exchange under section 21 of the OSA, to be registered as a commodity futures exchange under section 15 of the CFA, - exemption from the registration requirement under section 22 of the CFA with respect to trades in contracts traded on a CMEG Exchange (CMEG Contracts) by Hedgers (as defined in the CFA) – exemption from the registration requirement under section 22 of the CFA with respect to trades in CMEG Contracts by banks listed in Schedule I to the Bank Act (Canada) entering orders as principal and only for their own accounts.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21, 144.
Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 15, 22, 38, 78.

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

AND

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

AND

IN THE MATTER OF
CHICAGO MERCANTILE EXCHANGE INC.,
BOARD OF TRADE OF THE CITY OF CHICAGO, INC.,
COMMODITY EXCHANGE, INC., AND
NEW YORK MERCANTILE EXCHANGE, INC.

ORDER
(Section 144 of the OSA and sections 38 and 78 of the CFA)

WHEREAS the Ontario Securities Commission (**Commission**) issued an order (**Exemption Order**) dated October 22, 2013 exempting Chicago Mercantile Exchange Inc. (**CME**), Board of Trade of the City of Chicago, Inc. (**CBOT**), Commodity Exchange, Inc. (**COMEX**) and New York Mercantile Exchange, Inc. (**NYMEX**) (together, the **CMEG Exchanges**, and each individually, a **CMEG Exchange**) from the requirement to be recognized as an exchange under subsection 21(1) of the OSA and the requirement to be registered as a commodity futures exchange under subsection 15(1) of the CFA (**Exchange Relief**);

AND WHEREAS the Exemption Order also exempts trades in CMEG Contracts (as defined below) by a "hedger" as defined in subsection 1(1) of the CFA (**Hedger**) from the registration requirement under section 22 of the CFA (**Hedger Relief**);

AND WHEREAS the CMEG Exchanges have applied for an order pursuant to section 38 of the CFA exempting trades in CMEG Contracts by a bank listed in Schedule I to the *Bank Act* (Canada) (**Bank**) entering orders as principal and only for its own account from the registration requirement under section 22 of the CFA (**Bank Relief**);

AND WHEREAS the CMEG Exchanges have applied for an order pursuant to section 38 of the CFA exempting trades in CMEG Contracts by an Ontario User (as defined in the Exemption Order) that is not a dealer, a Hedger or a Bank, but has obtained an exemption from the requirement to be registered under the CFA from the registration requirement under section 22 of the CFA (**Participant Relief** and, together with the Hedger Relief and the Bank Relief, **Registration Relief**);

AND WHEREAS the CMEG Exchanges have also filed an application under section 144 of the OSA and under section 78 of the CFA requesting that the Commission issue an order varying the Exemption Order to grant the Bank Relief and the Participant Relief;

AND WHEREAS, based on the application and the representations made to the Commission by the CMEG Exchanges, the Commission has determined that it is not prejudicial to the public interest to vary the Exemption Order and to grant the Bank Relief;

IT IS ORDERED, pursuant to section 144 of the Act and Sections 38 and 78 of the CFA, that the Exemption Order is varied and restated as follows:

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

AND

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

AND

IN THE MATTER OF
CHICAGO MERCANTILE EXCHANGE INC.,
BOARD OF TRADE OF THE CITY OF CHICAGO, INC.,
COMMODITY EXCHANGE, INC. AND
NEW YORK MERCANTILE EXCHANGE, INC.

ORDER
(Section 147 of the OSA and sections 38 and 80 of the CFA)

WHEREAS the Ontario Securities Commission (**Commission**) issued an order (**Exemption Order**) dated October 22, 2013 exempting Chicago Mercantile Exchange Inc. (**CME**), Board of Trade of the City of Chicago, Inc. (**CBOT**), Commodity Exchange, Inc. (**COMEX**) and New York Mercantile Exchange, Inc. (**NYMEX**) (together, the **CMEG Exchanges**, and each individually, a **CMEG Exchange**) from the requirement to be recognized as an exchange under subsection 21(1) of the OSA and the requirement to be registered as a commodity futures exchange under subsection 15(1) of the CFA (**Exchange Relief**);

AND WHEREAS the Exemption Order also exempts trades in CMEG Contracts (as defined below) by a "hedger" as defined in subsection 1(1) of the CFA (**Hedger**) from the registration requirement under section 22 of the CFA (**Hedger Relief**);

AND WHEREAS the CMEG Exchanges have applied for an order pursuant to section 38 of the CFA exempting trades in CMEG Contracts by a bank listed in Schedule I to the *Bank Act* (Canada) (**Bank**) entering orders as principal and only for its own account from the registration requirement under section 22 of the CFA (**Bank Relief**);

AND WHEREAS the CMEG Exchanges have applied for an order pursuant to section 38 of the CFA exempting trades in CMEG Contracts by an Ontario User (as defined in the Exemption Order) that is not a dealer, a Hedger or a Bank, but has obtained an exemption from the requirement to be registered under the CFA from the registration requirement under section 22 of the CFA (**Participant Relief** and, together with the Hedger Relief and the Bank Relief, **Registration Relief**);

AND WHEREAS the CMEG Exchanges have also filed an application under section 144 of the OSA and under section 78 of the CFA requesting that the Commission issue an order varying the Exemption Order to grant the Bank Relief and the Participant Relief;

AND WHEREAS OSC Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario* (**Rule 91-503**) exempts trades of commodity futures contracts or commodity futures options made on commodity futures exchanges not registered with or recognized by the Commission under the CFA from sections 25 and 53 of the OSA;

AND WHEREAS the deemed rule titled *In the Matter of Trading in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges in the United States of America* provides that section 33 of the CFA does not apply to trades entered into a commodity futures exchanges designated by the United States (**U.S.**) Commodity Futures Trading Commission (**CFTC**) under the U.S. *Commodity Exchange Act* (**CEA**);

AND WHEREAS the CMEG Exchanges have not requested as part of the Application that the Exchange Relief apply to the operation of any trading system or platform that is a "swap execution facility" as defined in section 1a of the CEA, or to the provision of access to any such trading system or platform to prospective participants in Ontario;

AND WHEREAS the CMEG Exchanges have represented to the Commission that:

1.1 Each of CME, CBOT and NYMEX is a corporation organized under the laws of the State of Delaware in the U.S. and is a wholly-owned subsidiary of CME Group Inc. (**CMEG**), a publicly traded for-profit corporation organized under the laws of Delaware and listed for trading on the NASDAQ National Market. COMEX is a corporation organized under the laws of the State of New York in the U.S. and is a wholly-owned subsidiary of CMEG. CMEG is the ultimate parent company of each of the CMEG Exchanges;

1.2 The CMEG Exchanges receive a majority of their revenue from clearing and transaction fees, which include electronic trading fees, surcharges for privately-negotiated transactions and other volume-related charges for contracts executed through the CMEG Exchanges' trading venues;

1.3 CMEG, as the holding company for each of the CMEG Exchanges, has no operations of its own, does not have employees, relies upon the dividends declared and paid by its subsidiaries and has limited contractual arrangements. CME is the primary employer within the CMEG organization, with approximately 1,900 employees out of approximately 2,800 employees;

1.4 Each of CME, CBOT, COMEX and NYMEX is a designated contract market (**DCM**) within the meaning of that term under the CEA. The CMEG Exchanges are subject to regulatory supervision by the CFTC, a U.S. federal regulatory agency. The CMEG Exchanges are subject to the CEA and regulation by the CFTC, including applicable recordkeeping and production requirements. The CMEG Exchanges provide the CFTC with access to records falling under such recordkeeping or production requirements unless otherwise prohibited by applicable law, regulation or order or where such records are subject to solicitor-client privilege. The CFTC reviews, assesses and enforces the CMEG Exchanges' adherence to the CEA and the regulations thereunder on an ongoing basis, including the DCM core principles (**DCM Core Principles**) relating to the operation and oversight of the CMEG Exchanges' markets, including financial resources, systems and controls, maintenance of an orderly market, execution and settlement of transactions, rule-making and investor protection;

1.5 CME is also regulated as a derivatives clearing organization (**DCO**) by the CFTC, which results in CME being subject to extensive regulation by the CFTC under its principles-based approach and requires CME to satisfy the requirements of the DCO core principles relating to CME's activities as a DCO. The CFTC has further designated CME's clearing house as a Systemically Important Derivatives Clearing Organization (**SIDCO**), subjecting it to heightened regulation;

1.6 The CFTC's Division of Market Oversight conducts regular in-depth reviews of each DCM's ongoing compliance with the CEA and CFTC regulations addressing enforcement of rules, prevention of market manipulation and customer and market abuses, and the recording and safe storage of trade information. The results of these rule enforcement reviews (**RERs**) are in most cases summarized in reports by the CFTC which are made available to the public and posted on the CFTC's website. The most recent RER for CME, CBOT, NYMEX and COMEX was completed in November of 2017;

1.7 The CMEG Exchanges together form the largest commodity futures exchanges in the world and provide customers with trading and execution services for a diverse range of exchange-traded futures and options on futures (**exchange-traded products**). The exchange-traded products relate to underlyings in various asset classes, including short-term interest rates (Eurodollar, Euribor, U.S. Treasury Bills), government bonds (U.S. Treasury Bonds and Notes), medium and long-term swap rates (U.S. Dollar), equity indices (U.S.-related S&P, NASDAQ and DJIA indices and Nikkei indices), commodity index swaps (gold, crude oil, UBS commodity index) and a broad range of commodities (e.g., gold, silver, platinum, palladium, copper, steel and uranium, cocoa, coffee, corn, sugar, wheat, oats, soybeans, live cattle and butter). In addition, the CMEG Exchanges offer trading in freight futures, forwards and options, iron futures, options and swap futures, fertilizer swaps and electricity swap futures (collectively with all other exchange-traded products offered for trading on the CMEG Exchanges, the **CMEG Contracts**);

1.8 The CMEG Exchanges have a wide range of sophisticated customers comprised of both buy- and sell-side investors, including commercial and investment banks, corporations, pension funds, money managers, proprietary trading firms, hedge funds, commodity trading advisers, currency overlay managers, other institutional customers and individuals;

1.9 The CMEG Exchanges do not have any offices or maintain other physical installations in Ontario or any other Canadian province or territory, except for a CMEG marketing office in Calgary, Alberta whose activities are limited to marketing and development of energy products;

1.10 CME Globex is an electronic trading platform and also functions as the electronic central limit order book for each of the CMEG Exchanges. It is maintained and operated by CME on behalf of each of the CMEG Exchanges in connection with their respective DCM registrations;

1.11 As an electronic trading platform, CME Globex facilitates trading for users in the U.S. and foreign jurisdictions of exchange-traded products that are traded and executed on the CMEG Exchanges. CME Globex also provides order routing and hosting arrangements on other exchanges, including Bursa Malaysia, MexDer,the Dubai Mercantile Exchange and the Minneapolis Grain Exchange;

1.12 The CMEG Exchanges offer access in Ontario to their trading systems and facilities, via CME Globex, to prospective participants in Ontario (**Ontario Participants**). To obtain direct access to the trading systems and facilities of the CMEG Exchanges, via CME Globex, an Ontario Participant must either be:

(a) a "Member Firm", as defined in the rules of the CMEG Exchanges, that is also a "Clearing Member", as defined in the rules of the CMEG Exchanges (**CMEG Exchange Clearing Member**);

(b) a "Member" or "Member Firm", as defined in the rules of the CMEG Exchanges (collectively, **CMEG Exchange Members**), that has executed a customer connection agreement with CME through which the CMEG Exchange Member can transmit orders and trades directly into CME Globex with the guarantee of a CMEG Exchange Clearing Member; or

(c) a non-CMEG Exchange Member that has executed a customer connection agreement with CME through which the non-CMEG Exchange Member:

(i) can transmit orders and trades directly into CME Globex with the guarantee of a CMEG Exchange Clearing Member, and

(ii) is required, among other things, to comply with the rules of the CMEG Exchanges to which access is granted, when entering and executing transactions via CME Globex, and to comply with all applicable laws pertaining to the use of CME Globex (all such non-CMEG Exchange Members herein referred to as **Direct Access Users**);

1.13 Indirect access by Ontario Participants to the trading systems and facilities of the CMEG Exchanges, via CME Globex, may be facilitated via an order-routing arrangement between the Ontario Participant and a CMEG Exchange Clearing Member whereby orders of the Ontario Participant, as client of the CMEG Exchange Clearing Member, are routed through the CMEG Exchange Clearing Member onto a CMEG Exchange (**Order-Routing Client**);

1.14 The CMEG Exchanges expect that an Ontario Participant seeking direct access in accordance with above paragraph 1.12 (**Ontario User**) will be certain Canadian financial institutions (within the meaning of such term in subsection 1.1(3) of National Instrument 14-101 *Definitions*) and certain other market participants that have a head office or principal place of business in Ontario, such as (i) dealers that are engaged in the business of trading commodity futures in Ontario; (ii) utilities and other commercial enterprises that are exposed to risks attendant upon fluctuations in the price of a commodity; and (iii) institutional investors and proprietary trading firms. In each case, the CMEG Exchanges expect that Ontario Users will be (i) dealers and other entities that are engaged in the business of trading commodity futures and commodity options in Ontario, (ii) Hedgers, or (iii) Banks;

1.15 The CMEG Contracts fall within the definitions of "commodity futures contract" or "commodity futures option" as defined in section 1 of the CFA (collectively, **Commodity Futures**). As a result, each of the CMEG Exchanges is considered a "commodity futures exchange" as defined in section 1 of the CFA. Therefore the CMEG Exchanges are prohibited from carrying on business in Ontario unless they are registered or exempt from registration as a commodity futures exchange under subsection 15(1) of the CFA;

1.16 As the CMEG Exchanges intend to provide Ontario Participants with access in Ontario to their trading systems and facilities to trade the CMEG Contracts via CME Globex, the CMEG Exchanges are considered to be "carrying on business as commodity futures exchanges in Ontario";

1.17 None of the CMEG Exchanges is registered with or recognized by the Commission as a commodity futures exchange under the CFA and no CMEG Contracts have been accepted by the Director (as defined in the OSA) under the CFA. As a result, CMEG Contracts are also considered "securities" under paragraph (p) of the definition of "security" in section 1 of the OSA and each of the CMEG Exchanges is considered to be an "exchange" under the OSA. Therefore, the CMEG Exchanges are prohibited from carrying on business in Ontario unless they are recognized or exempt from recognition under subsection 21(1) of the OSA;

1.18 Further, while the CMEG Contracts are also considered "securities" under paragraph (p) of the definition of "security" in section 1 of the OSA for the reasons outlined in the preceding paragraph, the CMEG Contracts would not be considered "securities" under any other paragraph contained in that definition, nor would any CMEG Contract be considered a "derivative" as defined in section 1 of the OSA;

1.19 Similar to paragraph 1.16 above, since the CMEG Exchanges seek to provide Ontario Participants with access in Ontario to trade the CMEG Contracts via CME Globex, they are considered to be "carrying on business as exchanges in Ontario";

1.20 Additionally, the exemption from registration in subsection 32(a) of the CFA applies for trades "by a hedger through a dealer". This exemption will be available for trades in CMEG Contracts by Ontario-resident Hedgers that are Order-Routing Clients of CMEG Exchange Clearing Members that are dealers. However, this exemption will not be available for trades in CMEG Contracts by Ontario-resident Hedgers that become Ontario Users, since they will have direct access to a CMEG Exchange but will not be considered to be executing "through a dealer". For this reason, the CMEG Exchanges are seeking Commission approval for the Hedger Relief;

1.21 Section 35.1 of the OSA provides that financial institutions are exempt from the requirement to be registered under the OSA to act as dealers provided that the conditions of the exemption are met. However, there is no corresponding exemption from registration for trades by financial institutions in the CFA. For this reason, the CMEG Exchanges are seeking Commission approval for the Bank Relief.

1.22 The CMEG Exchanges ensure that all applicants for membership must satisfy certain criteria before their applications are considered for membership, including, among other things: age of majority, good moral character, good reputation, business integrity and adequate financial resources to assume the responsibilities and privileges of membership;

1.23 All CMEG Exchange Clearing Members that guarantee a CMEG Exchange Member or Direct Access User in connection with the provision of direct access under above paragraph 1.12 or that provide order routing access to an Order-Routing Client under above paragraph 1.13 will be registered futures commission merchants with the CFTC. Such CMEG Exchange Clearing Members are subject to the compliance requirements of the CEA, the CFTC and the National Futures Association as they relate to customer accounts, including various know-your-client, suitability, risk disclosure, anti-money laundering and anti-fraud requirements. These requirements, in conjunction with the margin requirements of the CMEG Exchanges applicable to CMEG Exchange Clearing Members, and subsequently to their clients whose trades they guarantee, ensure that Ontario Participants seeking to become Direct Access Users or Order-Routing Clients that are not also CMEG Exchange Members are subjected to appropriate due diligence procedures and fitness criteria. In addition, Direct Access Users are responsible for, among other things, compliance with the rules of the CMEG Exchanges to which access is granted, as those rules relate to the entering and executing of transactions via CME Globex, and to comply with all applicable laws pertaining to the use of CME Globex;

1.24 Based on the facts set out in the Application, each of the CMEG Exchanges satisfies the criteria for exemption set out in Appendix 1 of Schedule "A" to this order;

AND WHEREAS the CMEG Exchanges have acknowledged to the Commission that the scope of the Exchange Relief or Registration 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 CMEG Exchange's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives, Commodity Futures or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgements of the CMEG Exchanges to the Commission, the Commission has determined that:

(a) the CMEG Exchanges satisfy the criteria for exemption set out in Appendix 1 of Schedule "A";

(b) the granting of the Exchange Relief would not be prejudicial to the public interest; and

(c) the granting of the Registration Relief would not be prejudicial to the public interest;

AND WHEREAS the Exchange Relief granted by the Commission will not apply to the operation of any trading system or platform that is a "swap execution facility" as defined in section 1a of the CEA, or to the provision of access to any such trading system or platform to prospective participants in Ontario;

IT IS HEREBY ORDERED by the Commission that:

(a) pursuant to section 147 of the OSA, each of the CMEG Exchanges continues to be exempt from recognition as an exchange under subsection 21(1) of the OSA,

(b) pursuant to section 80 of the CFA, each of the CMEG Exchanges continues to be exempt from registration as a commodity futures exchange under subsection 15(1) of the CFA, and

(c) pursuant to section 38 of the CFA, trades in CMEG Contracts by Hedgers who are Ontario Users continue to be exempt from the registration requirement under section 22 of the CFA;

(d) pursuant to section 38 of the CFA, trades in CMEG Contracts by Banks who are Ontario Users entering orders as principal and only for their own accounts are exempt from the registration requirement under section 22 of the CFA; and

(e) pursuant to section 38 of the CFA, trades in CMEG Contracts by Ontario Users (as defined in the Exemption Order) who are not dealers, Hedgers or Banks, but have obtained an exemption from the requirement to be registered under the CFA are exempt from the registration requirement under section 22 of the CFA.

PROVIDED THAT

a. The CMEG Exchanges comply with the terms and conditions attached hereto as Schedule “A”.

b. Each of the Bank Relief and the Participant Relief shall expire on the earliest of:

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

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

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

DATED October 22, 2013 as varied and restated on April 6, 2018.

”Deborah Leckman”

“Mark J. Sandler”

SCHEDULE "A"

TERMS AND CONDITIONS

Meeting Criteria for Exemption

1. Each CMEG Exchange will continue to meet the criteria for exemption included in Appendix 1 to this schedule.

Regulation and Oversight of the CMEG Exchanges

2. Each CMEG Exchange will maintain its registration as a DCM with the CFTC and will continue to be subject to the regulatory oversight of the CFTC.

3. Each CMEG Exchange will continue to comply with the ongoing requirements applicable to it as a DCM registered with the CFTC.

4. Each CMEG Exchange must do everything within its control, which would include cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the OSA, as a commodity futures exchange exempted from registration under subsection 15(1) of the CFA, and in compliance with Ontario securities law and Ontario commodity futures law.

Access

5. A CMEG Exchange will not provide direct access to an Ontario User unless the Ontario User is appropriately registered to trade in CMEG Contracts, has obtained an exemption from registration, is a Hedger, or is a Bank; in making this determination, a CMEG Exchange may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered to trade in CMEG Contracts, has obtained an exemption from registration, is a Hedger, or is a Bank, and the CMEG Exchange will notify such Ontario User that this representation is deemed to be repeated each time it enters an order for a CMEG Contract.

6. Each Ontario User that intends to rely on the Hedger Relief will be required to, as part of its application documentation or continued access to trading in CMEG Contracts:

   (a) represent that it is a Hedger;

   (b) acknowledge that the CMEG Exchanges deem the Hedger representation to be repeated by the Ontario User each time it enters an order for a CMEG Contract and that the Ontario User must be a Hedger for the purposes of each trade resulting from such an order;

   (c) agree to notify the CMEG Exchanges if it ceases to be a Hedger;

   (d) represent that it will only enter orders for its own account;

   (e) acknowledge that it is a market participant under the CFA and is subject to applicable requirements; and

   (f) acknowledge that its ability to continue to rely on the Hedger Relief in accessing trading on the CMEG Exchanges will be dependent on the Commission continuing to grant the relief and may be affected by changes to the terms and conditions imposed in connection with the Hedger Relief or by changes to Ontario securities laws or Ontario commodity futures laws pertaining to derivatives, Commodity Futures or securities.

7. Each Ontario User that intends to rely on the Bank Relief will be required to, as part of its application documentation or continued access to trading in CMEG Contracts:

   (a) represent that it will only enters as principal and for its own account only;

   (b) represent that it is a Bank;

   (c) acknowledge that the Bank Relief may be affected by changes to the terms and conditions imposed in connection with the Bank Relief or by changes to Ontario securities laws or Ontario commodity laws pertaining to derivatives, Commodity Futures or securities; and

   (d) represent that it is not engaging in activities prohibited by its governing legislation.

8. Each CMEG Exchange will require Ontario Users to notify the CMEG Exchange if their registration or exemption from registration has been revoked, suspended or amended by the Commission or if they have ceased to be eligible for the Registration Relief and, following notice from the Ontario User or the Commission and subject to applicable laws, the CMEG Exchange will promptly restrict the Ontario User's access to the CMEG Exchange if the Ontario User is no longer appropriately registered with the Commission, or is no longer eligible for the Registration Relief.

9. Each CMEG Exchange must provide guidance to all CMEG Exchange Clearing Members that provide access to trading for Order-Routing Clients that are Ontario Participants that indicates that the CMEG Exchange Clearing Member is permitted to grant such access provided that (i) the Order-Routing Client is a registered futures commission merchant (**FCM**) under the CFA; (ii) the CMEG Exchange Clearing Member is a registered FCM under the CFA or (iii) the CMEG Exchange Clearing Member is regulated as a "dealer" (as that term is defined in subsection 1(1) of the CFA) in its home jurisdiction and the Order-Routing Client is a Hedger or is able to rely on another exemption from registration under the CFA.

10. Each CMEG Exchange must make available to Ontario Users appropriate training for each person who has access to trade in CMEG Contracts on CME Globex.

Trading by Ontario Users

11. A CMEG Exchange will not provide access to an Ontario User to trading in the exchange-traded products of an exchange other than those of the CMEG Exchange, unless such other exchange has sought and received appropriate regulatory standing in Ontario.

12. A CMEG Exchange will not provide access to an Ontario User to trading in CMEG Contracts other than those that meet the definition of "commodity futures contract" or "commodity futures option" as defined in subsection 1(1) of the CFA, and which also fall under paragraph (p) of the definition of "security" in subsection 1(1) of the OSA, without prior Commission approval.

Submission to Jurisdiction and Agent for Service

13. 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 a CMEG Exchange in Ontario, the CMEG Exchange will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.

14. Each CMEG Exchange 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 or relating to or concerning the Commission's regulation and oversight of a CMEG Exchange's activities in Ontario.

Disclosure

15. Each CMEG Exchange will provide to its Ontario Users, and also require Ontario Users that are registered FCMs under the CFA to distribute to Ontario clients, prior to the first trade by each client that is executed through the facilities of the CMEG Exchange, disclosure that states that:

    (a) rights and remedies against the CMEG Exchange may only be governed by the laws of the 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 CMEG Exchange may be governed by the laws of the U.S., rather than the laws of Ontario.

Filings with the CFTC

16. Each CMEG Exchange will promptly provide staff of the Commission copies of all material rules of the CMEG Exchange, and material amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.

17. Each CMEG Exchange will promptly provide staff of the Commission copies of all material contract specifications and material amended contract specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.

18. A CMEG Exchange will promptly provide staff of the Commission the following information to the extent it is required to file such information with the CFTC:

    (a) the annual Board of Directors' report regarding the activities of the board and its committees;

    (b) the annual financial statements of the CMEG Exchange;

    (c) details of any material legal proceeding instituted against the CMEG Exchange;

    (d) notification that the CMEG Exchange has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the CMEG Exchange or has a proceeding for any such petition instituted against it; and

    (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

Prompt Notice or Filing

19. Each CMEG Exchange will promptly notify staff of the Commission of any of the following:

    (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:

        (i) changes to the regulatory oversight by the CFTC;

        (ii) the corporate governance structure of that CMEG Exchange;

        (iii) the access model, including eligibility criteria, for Ontario Participants;

        (iv) systems and technology; and

        (v) the clearing and settlement arrangements for that CMEG Exchange;

    (b) any change in that CMEG Exchange's regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;

    (c) any condition or change in circumstances whereby that CMEG Exchange is unable or anticipates it will not be able to continue to meet the DCM Core Principles or any applicable requirements of the CEA or CFTC regulations;

    (d) any revocation or suspension of, or amendment to, the CMEG Exchange's registration as a DCM by the CFTC, or if the basis on which the CMEG Exchange's registration as a DCM was granted has significantly changed;

    (e) any known investigations of, or disciplinary action against, that CMEG Exchange by the CFTC or any other regulatory authority to which it is subject;

    (f) any matter known to that CMEG Exchange that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption, including any cybersecurity breach; and

    (g) any default, insolvency, or bankruptcy of any CME Exchange Member known to that CMEG Exchange or its representatives that may have a material, adverse impact upon the CMEG Exchange, the CME clearing system or any Ontario Participant.

20. Each CMEG Exchange will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding the CMEG Exchange once issued as final by the CFTC.

Quarterly Reporting

21. The CMEG Exchanges 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, specifically identifying for each Ontario User:

(i) its status as CMEG Exchange Clearing Member, CMEG Exchange Member or Direct Access User for each CMEG Exchange, and

(ii) the basis upon which it represented to a CMEG Exchange that it could be provided with direct access (i.e., that it is appropriately registered to trade in CMEG Contracts, has obtained an exemption from registration, is a Hedger, or is a Bank);

(b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by a CMEG Exchange or, to the best of the CMEG Exchanges' knowledge, by the CFTC with respect to such Ontario Users' activities on a CMEG Exchange;

(c) a list of all referrals to the CMEG Market Regulation Enforcement group by a CMEG Exchange concerning Ontario Users;

(d) a list of all Ontario applicants for status as an Ontario User who were denied such status or access to a CMEG Exchange during the quarter;

(e) a list of all new by-laws, rules, and contract specifications, and changes to by-laws, rules and contract specifications, not already reported under sections 15 and 16 of this schedule;

(f) a list of all CMEG Contracts available for trading during the quarter, identifying any additions, deletions or changes since the prior quarter;

(g) for each CMEG Contract,

(i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and

(ii) the proportion of worldwide trading volume and value on the CMEG Exchanges conducted by Ontario Users, presented in the aggregate for such Ontario Users; and

(h) a list outlining each incident of a significant system outage that occurred at any time during the quarter for any system impacting Ontario Users' trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the outage, and noting any corrective action taken.

Annual Reporting

22. The CMEG Exchanges will arrange to have the annual report and annual audited financial statements of CMEG filed with the Commission promptly after their issuance.

23. The CMEG Exchanges will arrange to have the annual "Service Organization Controls 1" report prepared for CMEG filed with the Commission promptly after the report is issued as final by its independent auditor.

Information Sharing

24. The CMEG Exchanges will provide information (including additional periodic reporting) 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.

APPENDIX 1

CRITERIA FOR EXEMPTION

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

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 its 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 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are reviewed by the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure

(i) participants are appropriately registered as applicable under Ontario securities laws or Ontario commodity futures laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

(d) The exchange does not

(i) permit unreasonable discrimination among participants, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 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 its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

(a) The exchange has rules, policies and other similar instruments (**Rules**) that are designed to appropriately govern the operations and activities of participants.

(b) The Rules are not contrary to the public interest and are designed to

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 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 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has appropriate arrangements for the clearing and settlement of transactions through a clearing house.[1]

8.2 Regulation of the Clearing House

The clearing house is subject to acceptable regulation.

8.3 Authority of Regulator

A foreign regulator has the appropriate authority and procedures for oversight of the clearing house. This includes regular, periodic regulatory examinations of the clearing house by the foreign regulator.

8.4 Access to the Clearing House

(a) The clearing house has established appropriate written standards for access to its services.

(b) The access standards for clearing members and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

8.5 Sophistication of Technology of Clearing House

The exchange has assured itself that the information technology used by the clearing house has been adequately reviewed and tested and provides at least the same level of safeguards as required of the exchange.

8.6 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

(a) order entry,

(b) order routing,

(c) execution,

(d) trade reporting,

(e) trade comparison,

(f) data feeds,

(g) market surveillance,

(h) trade clearing, and

(i) financial reporting.

[1] For the purposes of these criteria, "clearing house" also means a "clearing agency".

9.2 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 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRANSPARENCY

11.1 Transparency

The exchange has adequate arrangements to record and publish accurate and timely trade and order information. This information is provided to all participants on an equitable basis.

PART 12 RECORD KEEPING

12.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 13 OUTSOURCING

13.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 14 FEES

14.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 15 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

15.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

15.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.

PART 16 IOSCO PRINCIPLES

16.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (**IOSCO**) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).

2.2.5 Investment Industry Regulatory Organization of Canada – s. 144 of the Act and s. 78(1) of the CFA

Headnote

Variation and restatement of recognition order of a self-regulatory organization to clarify and update reporting requirements.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 78(1).
Securities Act, R.S.O. 1990, c. S.5, as am., s. 144.

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

AND

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

AND

IN THE MATTER OF
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
("IIROC")

VARIATION AND RESTATEMENT OF RECOGNITION ORDER
(Section 144 of the Act and Subsection 78(1) of the CFA)

WHEREAS the Commission issued an order dated May 16, 2008, as amended on May 28, 2010, recognizing IIROC as a self-regulatory organization pursuant to section 21.1 of the Act and subsection 16(1) of the CFA ("Previous Order");

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue an order that varies and restates the Previous Order to amend Appendix A and Schedule 2 to clarify and update IIROC's reporting requirements;

IT IS ORDERED pursuant to section 144 of the Act and subsection 78(1) of the CFA that the Previous Order be varied and restated as follows:

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

AND

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

AND

IN THE MATTER OF
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

RECOGNITION ORDER
(Subsection 21.1(1) of the Act and Subsection 16(1) of the CFA)

The Investment Dealers Association of Canada (the IDA) had been recognized by the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Nova Scotia Securities Commission, Ontario Securities

Commission, Saskatchewan Financial Services Commission, the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador) and the Autorité des marchés financiers (Québec), and had applied to the New Brunswick Securities Commission for recognition (together with the Securities Office, Consumer, Corporate and Insurance Services Division, Office of the Attorney General (Prince Edward Island), (the Recognizing Regulators) as a self-regulatory organization or self-regulatory body pursuant to applicable legislation.

Market Regulation Services Inc. (RS) had been recognized by the Autorité des marchés financiers (Québec) and the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission and Ontario Securities Commission as a self-regulatory organization or self-regulatory body pursuant to applicable securities legislation.

The IDA and RS agreed to combine their operations into IIROC.

IIROC will, among other things:

a. regulate investment dealers, including alternative trading systems (ATSs) and futures commission merchants (Dealer Members);

b. if retained by an ATS pursuant to National Instrument 23-101 *Trading Rules*, regulate the ATS as a Marketplace Member (defined below) and the subscribers of the ATS;

c. establish, administer and monitor its rules, policies and other similar instruments (Rules);

d. enforce compliance with its Rules by Dealer Members and others subject to its jurisdiction;

e. provide services to exchanges and quotation and trade reporting systems (QTRSs) (together with ATSs, Marketplace Members) that choose to retain it as a regulation services provider, as that term is defined under National Instrument 21-101 *Marketplace Operation*;

f. if retained by an exchange or QTRS, administer, monitor and/or enforce rules pursuant to a regulation services agreement between IIROC and that exchange or QTRS (RSA);

g. conduct certain functions delegated to it by Recognizing Regulators, including registration functions; and

h. perform investigation and enforcement functions on behalf of the IDA and RS for as long as each of the IDA and RS continues to be recognized by the Commission as a self-regulatory organization or a self-regulatory body.

On April 30, 2008, the Board of IIROC adopted the rules and policies of RS and the regulatory By-laws, Regulations, Forms and Policies of the IDA that were in force and effect at that time, subject to incidental conforming changes made to ensure consistency, and the Hearing Committees and Hearing Panels Rule as the Rules.

On April 30, 2008, the Board of IIROC adopted the market integrity notices issued by RS and all regulatory notices, bulletins, directives and guidance provided by the IDA that were in effect at that time.

IIROC applied to the Ontario Securities Commission (Commission) and the other Recognizing Regulators for recognition as a self-regulatory organization pursuant to subsection 21.1(1) of the Act and subsection 16(1) of the CFA.

The Commission issued an order dated May 16, 2008 and effective on June 1, 2008, recognizing IIROC as a self-regulatory organization pursuant to subsection 21.1(1) of the Act and subsection 16(1) of the CFA.

IIROC applied on May 14, 2010, to amend Appendix A of the order dated May 16, 2008, to: (i) extend the time for IIROC to develop an integrated fee model and submit it for approval with the Commission and (ii) extend the time IIROC must provide written quarterly reports on the status of the development of the fee model.

The Commission issued an order dated May 16, 2008, as amended on May 28, 2010, amending Appendix A pursuant to section 144 of the Act and subsection 16(1) of the CFA (Previous Order).

The Executive Director applied on February 6, 2018, to amend Appendix A and Schedule 2 of the Previous Order to clarify and update IIROC's reporting requirements.

The Commission is satisfied that continuing to recognize IIROC as a self-regulatory organization, subject to the terms and conditions set out in Appendix A, is not prejudicial to the public interest.

The Commission hereby continues to recognize IIROC as a self-regulatory organization pursuant to section 21.1 of the Act and subsection 16(1) of the CFA on the terms and conditions set out in Appendix A and the applicable provisions of the Memorandum of Understanding between the Recognizing Regulators, as amended from time to time (MOU).

Dated May 16, 2008, as amended on May 28, 2010 and March 9, 2018.

"Tim Moseley"
Commissioner
Ontario Securities Commission

"D. Grant Vingoe"
Commissioner
Ontario Securities Commission

APPENDIX A

TERMS AND CONDITIONS

1. Recognition Criteria

IIROC must continue to meet the criteria attached at Schedule 1.

2. Approval of Changes

a. Prior Commission approval is required for any changes to the following:

(i) the corporate governance structure of IIROC, as reflected in IIROC's By-law No. 1 (By-law No. 1);

(ii) letters patent of IIROC, and any supplementary letters patent; and

(iii) the assignment, transfer, delegation or sub-contracting of the performance of all or a substantial part of its regulatory functions or responsibilities as a self-regulatory organization.

b. Prior Commission approval is required for material changes to the following:

(i) the fee model;

(ii) the functions IIROC performs;

(iii) IIROC's organizational structure;

(iv) the activities, responsibilities, and authority of the District Councils; and

(v) the Regulation Services Agreement between IIROC and any Marketplace Member.

3. Status

a. IIROC must operate on a not-for-profit basis.

b. IIROC must comply with any terms and conditions the Commission may impose in the public interest concerning any transaction that would result in IIROC:

(i) ceasing to perform its services;

(ii) discontinuing, suspending or winding-up all or a significant portion of its operations;

(iii) disposing of all or substantially all of its assets; or

(iv) terminating its agreement with an information technology service provider providing critical technology systems.

4. Rules and Rule-Making

IIROC must comply with the process for filing and obtaining Commission approval for by-laws, Rules and any amendments to by-laws or Rules as outlined in Appendix A of the MOU, as amended from time to time.

5. Governance

a. IIROC must:

(i) ensure that at least 50% of its board of directors (Board), other than the President of IIROC, are independent directors as defined in By-law No. 1;

(ii) ensure that one of the directors represents an exchange or ATS that is not affiliated with a marketplace

(A) that retains IIROC, and

(B) has at least a 40% Market Share as defined in By-law No. 1 (Market Share); and

(iii) review the corporate governance structure, including the composition of the Board, at the request of the Commission,

to ensure that there is a proper balance between, and effective representation of, the public interest and the interests of marketplaces, dealers and other entities desiring access to the services provided by IIROC.

6. Due Process

Subject to applicable law and the Rules and by-laws of IIROC, before rendering a decision that affects the rights of a person or company in relation to membership, registration or enforcement matters, IIROC must provide that person or company an opportunity to be heard.

7. Performance of Regulatory Functions

a. IIROC must set Rules governing its members and others subject to its jurisdiction.

b. IIROC must administer and monitor compliance with the Rules and securities laws by members and others subject to its jurisdiction and enforce compliance with the Rules by Dealer Members, including ATSs, and others subject to its jurisdiction.

c. If retained by an exchange or QTRS, IIROC must administer, monitor and/or enforce rules pursuant to an RSA.

d. IIROC must, subject to applicable legislation, collect, use and disclose personal information only to the extent reasonably necessary to carry out its regulatory activities and mandate.

e. IIROC must ensure that it is accessible for contact by the public for purposes relating to the performance of its functions as a self-regulatory organization.

f. IIROC must publish concurrently in English and French each document issued to the public or generally to any class of members.

g. IIROC must adopt policies and procedures designed to ensure that confidential information about its operations or those of any Dealer Member, Marketplace Member or marketplace participant is maintained in confidence and not shared inappropriately with other persons, and must use all reasonable efforts to comply with these policies and procedures.

h. IIROC must, at least annually, self-assess IIROC's performance of its regulatory responsibilities, and report thereon to its Board, together with any recommendations for improvements.

8. Use of Fines and Settlements

All fines collected by IIROC and all payments made under settlement agreements entered into with IIROC may be used only as follows:

a. as approved by the Corporate Governance Committee,

(i) for the development of systems or other non-recurring capital expenditures that are necessary to address emerging regulatory issues resulting from changing market conditions and are directly related to protecting investors and the integrity of the capital markets;

(ii) for the education of securities market participants and members of the public about or research into investing, financial matters or the operation or regulation of securities markets;

(iii) to contribute to a non-profit, tax-exempt organization, the purposes of which include protection of investors, or those described in paragraph (a)(ii); or

b. for reasonable costs associated with the administration of IIROC's hearing panels.

9. Disciplinary Matters

a. Subject to paragraph (b), IIROC must

(i) promptly notify the public and the news media of:

(A) the specifics relating to each disciplinary or settlement hearing once the hearing date is set, and

(B) the terms of each settlement and the disposition of each disciplinary action once the terms or disposition is determined; and

(ii) ensure that disciplinary and settlement hearings are open to the public and the news media.

b. Despite paragraph (a), IIROC may, on its own initiative or on request, order a closed-door hearing or prohibit the publication or release of information or documents if it determines that it is required for the protection of confidential matters. IIROC must establish written criteria for making a determination of confidentiality.

10. Capacity and Integrity of Systems

a. IIROC must

(i) ensure that each of IIROC's critical systems, including its technology systems, has

(A) appropriate internal controls to ensure integrity and security of information; and

(B) has reasonable and sufficient capacity, and backup to enable IIROC to properly carry on its business; and

(ii) have controls to manage the risks associated with its operations, including an annual review of its contingency and business continuity plans.

b. IIROC must on a reasonably frequent basis, and in any event, at least annually:

(i) make reasonable current and future capacity estimates for its critical systems;

(ii) conduct capacity stress tests to determine the ability of its critical systems to perform its regulation functions in an accurate, timely and efficient manner;

(iii) review and keep current the development and testing methodology of those systems; and

(iv) review the vulnerability of those systems to internal and external threats including physical hazards and natural disasters.

c. IIROC must cause to be performed an independent review, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (b) above, and conduct a review by its Board of the report containing the recommendations and conclusions of the independent review. This term and condition will not apply if:

(i) the information technology provider retained by IIROC is required, either by law or otherwise, to conduct an annual independent review; and

(ii) IIROC's Board obtains and reviews annually a copy of the independent review report of its information technology provider to ensure that it has controls in place to address the matters outlined in paragraph (b) above.

d. IIROC must, periodically or at the request of the Commission, benchmark surveillance systems and services provided by its information technology providers against comparable systems and services available from other third party technology providers.

11. Ongoing Reporting Requirements

a. IIROC must comply with reporting requirements set out in Schedule 2 of this Recognition Order, as amended from time to time by the Commission or its staff.

b. IIROC must provide the Commission with other reports, documents and information as the Commission or its staff may request.

SCHEDULE 1

CRITERIA FOR RECOGNITION

1. Governance

a. The governance structure and arrangements must ensure:

(i) effective oversight of the entity;

(ii) fair, meaningful and diverse representation on the governing body (Board) and any committees of the Board, including a reasonable proportion of independent directors;

(iii) a proper balance among the interests of the different persons or companies subject to regulation by IIROC; and

(iv) each director or officer is a fit and proper person.

2. Public Interest

IIROC must regulate to serve the public interest in protecting investors and market integrity. It must articulate and ensure it meets a clear public interest mandate for its regulatory functions.

3. Conflicts of interest

IIROC must effectively identify and manage conflicts of interest.

4. Fees

a. All fees imposed by IIROC must be equitably allocated. Fees must not have the effect of creating unreasonable barriers to access.

b. The process for setting fees must be fair and transparent.

c. IIROC must operate on a cost-recovery basis.

5. Access

a. IIROC must have reasonable written criteria that permit all persons or companies that satisfy the criteria to access IIROC's regulatory services.

b. The access criteria and the process for obtaining access should be fair and transparent.

6. Financial Viability

IIROC must have sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

7. Capacity to Perform Regulatory Functions

a. IIROC must maintain its capacity to effectively and efficiently perform its regulatory functions, which include governing the conduct of persons or companies subject to its regulation and monitoring and enforcing applicable requirements.

b. IIROC must maintain in each jurisdiction where it has an office

(i) sufficient financial, technological, human and other resources; and

(ii) appropriate organizational structures and adequate technological systems

to efficiently, effectively and in a timely manner perform its regulatory functions and responsibilities.

8. Capacity and Integrity of Systems

IIROC must maintain controls to ensure capacity, integrity requirements and security of its technology systems.

9. Rules

a. IIROC must establish and maintain Rules that:

(i) are necessary or appropriate to govern and regulate all aspects of its functions and responsibilities as a self-regulatory entity;

(ii) are designed to:

(A) ensure compliance with securities laws,

(B) prevent fraudulent and manipulative acts and practices,

(C) promote just and equitable principles of trade and the duty to act fairly, honestly and in good faith,

(D) foster cooperation and coordination with entities engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities,

(E) foster fair, equitable and ethical business standards and practices,

(F) promote the protection of investors, and

(G) provide for appropriate discipline of those whose conduct it regulates;

(iii) do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives;

(iv) do not impose costs or restrictions on the activities of market participants that are disproportionate to the goals of the regulatory objectives sought to be realized; and

(v) are not contrary to the public interest.

10. Disciplinary Matters

The process for discipline must be fair and transparent.

11. Information Sharing and Regulatory Cooperation

To assist other regulatory authorities in regulatory matters, IIROC must share information and cooperate with:

a. the Commission and any other securities regulatory authority, whether domestic or foreign;

b. exchanges;

c. self-regulatory organizations;

d. clearing agencies;

e. financial intelligence or law enforcement agencies or authorities; and

f. investor protection or compensation funds, whether domestic or foreign.

This assistance includes the collection and sharing of information and other forms of assistance for the purpose of market surveillance, investigations, enforcement litigation, investor protection and compensation and for any other regulatory purpose and is subject to applicable laws related to information sharing and protection of personal information.

12. Other Criteria – Québec

Constituting documents, by-laws and operating rules of IIROC should allow that the power to make decisions relating to the supervision of its activities in Québec will be exercised mainly by persons residing in Québec.

SCHEDULE 2

REPORTING REQUIREMENTS

1. Prior Notification

a. IIROC will provide the Commission with at least twelve months' written notice prior to completing any transaction that would result in IIROC:

(i) ceasing to perform its services;

(ii) discontinuing, suspending or winding-up all or a significant portion of its operations; or

(iii) disposing of all or substantially all of its assets.

b. IIROC will provide the Commission with at least three months' written notice prior to:

(i) terminating its agreement with an information technology service provider providing critical technology systems; or

(ii) any intended material change to its agreement with an information technology service provider regarding its critical technology systems.

2. Immediate Notification

IIROC will immediately notify the Commission of the following events:

a. the admission of a new member, including the member's name, and any terms and conditions that are imposed on the member;

b. members whose rights and privileges or membership will be suspended or terminated, including:

(i) the member's name;

(ii) the reasons for the proposed suspension or termination; and

(iii) a description of the steps being taken to ensure that the member's clients are being dealt with appropriately;

c. receipt of a member's intention to resign.

The notice required by this section may be provided by IIROC issuing a public notice containing the information, provided that such public notice will be issued immediately after the decision is made for admission, suspension or termination of membership and immediately after receipt of a notice of intention to resign, as the case may be.

3. Prompt Notification

IIROC will provide the Commission with prompt notice of the following events and situations, and in each case describe the circumstances that gave rise to the reportable event or situation, and IIROC's proposed response to ensure resolution, and, if appropriate, provide timely updates:

a. situations that would reasonably be expected to raise concerns about IIROC's financial viability, including but not limited to, an inability to meet its expected expenses for the next quarter or the next year;

b. notification from any of the Recognizing Regulators that IIROC is not in compliance with one or more of the terms and conditions of recognition of IIROC in any jurisdiction or with the reporting requirements set out in the MOU;

c. any material violations of securities legislation of which IIROC becomes aware in the ordinary course operation of its business;

d. any material failures in the controls described in terms and conditions 10(a)(i) and (ii) of Appendix A to this Recognition Order;

e. any failure, malfunction, delay or security breach, including material cyber security breaches, of IIROC's critical systems or technology systems that support IIROC's critical systems;

f. any breach of security safeguards involving information under IIROC's control if it is reasonable in the circumstances to believe that the breach creates a real risk of significant harm to investors, issuers, registrants, other market participants, IIROC, the Canadian Investor Protection Fund (CIPF), or the capital markets;

g. any material change to the information set out in the application letter dated December 21, 2007;

h. actual or apparent misconduct or non-compliance by members, Approved Persons, marketplace participants, or others, where investors, clients, creditors, members, CIPF, or IIROC may reasonably be expected to suffer serious damage as a consequence thereof, including but not limited to:

(i) where fraud appears to be present; or

(ii) where serious deficiencies in supervision or internal controls exist;

i. situations that would reasonably be expected to raise concerns about a member's continued viability, including but not limited to, capital deficiency, early warning, and any condition which, in the opinion of IIROC, could give rise to payments being made out of CIPF, including any condition which, alone or together with other conditions, could, if appropriate corrective action is not taken, reasonably be expected to:

(i) inhibit the member from promptly completing securities transactions, promptly segregating clients' securities as required or promptly discharging its responsibilities to clients, other members, or creditors;

(ii) result in material financial loss to the member or its clients; or

(iii) result in material misstatement of the member's financial statements;

j. any action taken by IIROC with respect to a member in financial difficulty;

k. any terms and conditions imposed, varied or removed by IIROC relating to a member;

l. any enforcement agreement and undertaking entered into, varied or rescinded at IIROC's request relating to a member.

4. Quarterly Reporting

IIROC will file on a quarterly basis with the Commission a report pertaining to IIROC's regulatory operations promptly after the report is reviewed or approved by IIROC's Board, board committees, or senior management, as the case may be, containing at a minimum the following information and documents:

a. a summary of ongoing initiatives, policy changes, and emerging or key issues that arose in the previous quarter for each of IIROC's regulatory operations;

b. a summary of all compliance examinations in progress or completed during the previous quarter, and all compliance examinations scheduled to be commenced in the upcoming quarter by IIROC office and department, including information on repeat or significant deficiencies;

c. a summary of any terms and conditions imposed, varied or removed relating to Approved Persons during the previous quarter;

d. a summary of all discretionary exemptions granted to individuals, members, and marketplace participants during the previous quarter;

e. summary statistics for the previous quarter regarding all client complaints, and complaints received from other sources including, but not limited to, any other securities regulatory authority;

f. summary statistics by IIROC office for the previous quarter regarding the caseload for each of case assessment, trading review and analysis, market surveillance, investigations and prosecutions, separated between Member and Marketplace Regulation cases including the length of time the files have been open;

g. a summary of enforcement files that were referred to any of the Recognizing Regulators during the previous quarter; and

h. IIROC's regulatory staff complement, by function, and details of any material changes or reductions in regulatory staffing, by function, during the previous quarter.

5. Annual Reporting

IIROC will file on an annual basis with the Commission a report pertaining to IIROC's regulatory operations promptly after the report is reviewed or approved by IIROC's Board, board committees, or senior management, as the case may be, containing at a minimum the following documents:

a. the self-assessment referred to in term and condition 7(h) of Appendix A to this Recognition Order. The self-assessment must contain information as specified by Commission staff from time to time and include the following information:

(i) an assessment of how IIROC is meeting its regulatory mandate, including an assessment against the recognition criteria in Schedule 1 to the Recognition Order and the terms and conditions in Appendix A to the Recognition Order;

(ii) an assessment against its strategic plan;

(iii) a description of trends seen as a result of compliance reviews, investigations and prosecutions conducted, and complaints received, including IIROC's plan to deal with any issues;

(iv) whether IIROC is meeting its benchmarks, and reasons for any benchmarks not being met;

(v) a description and update on significant projects undertaken by IIROC; and

(vi) a description of issues raised by any of the Recognizing Regulators, external auditors or internal audit, which are being tracked by IIROC's senior management, together with a summary of the progress made on their resolution; and

b. certification by IIROC's Chief Executive Officer and General Counsel that IIROC is in compliance with the terms and conditions applicable to it in Appendix A to this Recognition Order.

6. Financial Reporting

a. IIROC will file with the Commission unaudited quarterly financial statements with notes within 60 days after the end of each financial quarter.

b. IIROC will file with the Commission audited annual financial statements accompanied by the report of an independent auditor within 90 days after the end of each fiscal year.

7. Other Reporting

a. IIROC will provide the Commission on a timely basis with the following information and documents upon publication or completion of review and approval by IIROC's Board, board committees, or senior management, as the case may be:

(i) the results of any corporate governance review referred to in term and condition 5(a)(iii) of Appendix A to this Recognition Order;

(ii) material changes to the code of business ethics and conduct and the written policy about managing potential conflicts of interests of members of IIROC's Board;

(iii) changes in the members of IIROC's Board;

(iv) the financial budget for the current year, together with the underlying assumptions, that have been approved by IIROC's Board;

(v) the independent review report referred to in term and condition 10(c) of Appendix A to this Recognition Order;

(vi) the results of benchmarking of surveillance systems and services referred to in term and condition 10(d) of Appendix A to this Recognition Order, together with a summary of the process undertaken and conclusions reached;

(vii) enterprise risk management reports, and any material changes to enterprise risk management methodology;

(viii) the internal audit charter, annual internal audit plan, and internal audit reports;

(ix) the annual report for the current year;

(x) the compliance examination plan for the current year;

(xi) material changes to the compliance or enforcement processes or scope of work, including risk assessment models for:

(A) Financial and Operations Compliance;

(B) Business Conduct Compliance; and

(C) Trading Conduct Compliance.

b. IIROC will provide the Commission with reasonable prior notice of any document that it intends to publish or issue to the public or to any class of members which, in the opinion of IIROC, could have a significant impact on:

(i) its members and others subject to its jurisdiction; or

(ii) the capital markets generally.

c. IIROC will, upon request, provide the Commission with the following information and documents as soon as practicable:

(i) information concerning closed investigations or prosecutions which did not lead to disciplinary or settlement proceedings including the final investigation report and recommendation memorandum; and

(ii) information concerning enforcement matters that resulted in disciplinary or settlement proceedings including the final penalty memorandum.

2.2.6 Mutual Fund Dealers Association of Canada/Association Canadienne des Courtiers de Fonds Mutuels – s. 144

Headnote

Variation and restatement of recognition order of a self-regulatory organization to clarify and update reporting requirements.

Statutes Cited

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

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

AND

IN THE MATTER OF
MUTUAL FUND DEALERS ASSOCIATION OF CANADA/
ASSOCIATION CANADIENNE DES COURTIERS DE FONDS MUTUELS
(THE "MFDA")

VARIATION AND RESTATEMENT OF RECOGNITION ORDER
(Section 144)

WHEREAS the Commission issued an order dated February 6, 2001, as amended on March 30, 2004, November 3, 2006, October 28, 2008, December 12, 2008 and October 29, 2014, recognizing the MFDA as a self-regulatory organization for mutual fund dealers pursuant to section 21.1 of the Act ("Previous Order");

AND WHEREAS only the Recognizing Regulators have entered into a Memorandum of Understanding regarding oversight of the MFDA effective October 2, 2013 (MOU), specifying the Joint Rule Review Protocol (JRRP) for review and approval of, or non-objection to, Rule Changes (as defined in the MOU) of the MFDA;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue an order that varies and restates the Previous Order to amend Schedule A and Appendix A to clarify and update the MFDA's reporting requirements;

IT IS ORDERED pursuant to section 144 of the Act that the Previous Order be varied and restated as follows:

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

AND

IN THE MATTER OF
MUTUAL FUND DEALERS ASSOCIATION OF CANADA/
ASSOCIATION CANADIENNE DES COURTIERS DE FONDS MUTUELS
(the "MFDA")

RECOGNITION ORDER
(Section 21.1)

WHEREAS the Commission recognized the MFDA as a self-regulatory organization for mutual fund dealers by an order dated February 6, 2001, as amended on March 30, 2004, November 3, 2006, October 28, 2008, December 12, 2008 and October 29, 2014 ("Previous Order"), subject to terms and conditions;

AND WHEREAS the MFDA will continue to regulate, in accordance with its by-laws, rules, regulations, policies, forms, and other similar instruments ("Rules"), the operations and the standards of practice and business conduct of its members and their Approved Persons as defined under its Rules;

AND WHEREAS the Commission is satisfied that continuing to recognize the MFDA would not be prejudicial to the public interest;

THE COMMISSION HEREBY VARIES AND RESTATES the MFDA's recognition as a self-regulatory organization so that the recognition pursuant to section 21.1 of the Act continues, subject to the terms and conditions set out in Schedule A.

Dated February 6, 2001, as amended on March 30, 2004, November 3, 2006, October 28, 2008, December 12, 2008, October 29, 2014 and March 9, 2018.

"Tim Moseley"
Commissioner
Ontario Securities Commission

"D. Grant Vingoe"
Commissioner
Ontario Securities Commission

SCHEDULE A

TERMS AND CONDITIONS OF RECOGNITION OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA AS A SELF-REGULATORY ORGANIZATION FOR MUTUAL FUND DEALERS

1. Definitions

For the purposes of this Schedule:

"Approved Person" has the same meaning as that under the MFDA rules, as amended by the MFDA and approved by the Commission from time to time;

"member" means a member of the MFDA;

"MFDA IPC" means MFDA Investor Protection Corporation;

"rules" means the by-laws, rules, regulations, policies, forms, and other similar instruments of the MFDA; and

"securities legislation" has the same meaning as that defined in National Instrument 14-101.

2. Status

The MFDA is and shall remain a not-for-profit corporation.

3. Corporate Governance

(A) The MFDA's arrangements with respect to the appointment, removal from office and functions of the persons ultimately responsible for making or enforcing the rules of the MFDA, being the Board of Directors (the "Board"), shall secure a proper balance between the interests of the different members of the MFDA in order to ensure diversity of representation on the Board. In recognition that the protection of the public interest is a primary goal of the MFDA, a reasonable number and proportion of directors on the Board and on the committees of the Board shall be and remain during their term of office Public Directors as defined in By-law No. 1 of the MFDA.

(B) The MFDA's governance structure shall provide for:

(i) at least 50% of its directors, other than its President and Chief Executive Officer, shall be Public Directors;

(ii) the President and Chief Executive Officer of the MFDA is deemed to be neither a Public Director nor a non-Public Director;

(iii) appropriate representation of Public Directors on committees and bodies of the Board, in particular:

(a) at least 50% of directors on the governance committee of the Board shall be Public Directors,

(b) a majority of directors on the audit committee of the Board shall be Public Directors,

(c) at least 50% of directors on the executive committee of the Board, if any, shall be Public Directors,

(d) meetings of the Board shall have a quorum requirement of a reasonable number and proportion of Public Directors and non-Public Directors, with at least two Public Directors, and

(e) meetings of any committee or body of the Board shall have a quorum requirement of a reasonable number and proportion of Public Directors and non-Public Directors, provided that if the committee or body has Public Directors then the quorum must require at least one Public Director be present;

(iv) the remaining number of directors serving on the Board and on the above referred to committees and bodies of the Board, shall consist of directors representing the different members of the MFDA to ensure diversity of representation on the Board in accordance with paragraph (A);

(v) appropriate qualification, remuneration, and conflict of interest provisions and provisions with respect to the limitation of liability of and indemnification protection for directors, officers and employees of the MFDA; and

(vi) a chief executive officer and other officers, all of whom, except for the chair of the Board, are independent of any member.

4. Fees

(A) Any and all fees imposed by the MFDA on its members shall be equitably allocated and bear a reasonable relation to the costs of regulating members, carrying out the MFDA's objects and protecting the public interest. Fees shall not have the effect of creating unreasonable barriers to membership and shall be designed to ensure that the MFDA has sufficient revenues to discharge its responsibilities.

(B) The MFDA's process for setting fees shall be fair, transparent, and appropriate.

5. Compensation or Contingency Trust Funds

The MFDA shall co-operate with the MFDA IPC and any compensation funds or contingency trust funds that are from time to time considered by the Commission under securities legislation to be compensation funds or contingency trust funds for mutual fund dealers. The MFDA shall ensure that its rules give it the power to assess members, and require members to pay such assessments, on account of assessments or levies made by or in respect of the MFDA IPC.

6. Membership Requirements

(A) The MFDA's rules shall permit all properly registered mutual fund dealers who satisfy the membership criteria to become members thereof and shall provide for the non-transferability of membership.

(B) Without limiting the generality of the foregoing, the MFDA's rules shall provide for:

(i) reasonable financial and operational requirements, including minimum capital and capital adequacy, debt subordination, bonding, insurance, record-keeping, new account, knowledge of clients, suitability of trades, supervisory practices, segregation, protection of clients' funds and securities, operation of accounts, risk management, internal control and compliance (including a written compliance program), client statement, settlement, order taking, order processing, account inquiries, confirmation and back office requirements;

(ii) reasonable proficiency requirements (including training, education and experience) with respect to Approved Persons of members;

(iii) consideration of disciplinary history, including breaches of applicable securities legislation, the rules of other self-regulatory organizations or MFDA rules, prior involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or civil proceedings involving business conduct or alleging fraudulent conduct or deceit, and prior business and other conduct generally, of applicants for membership and any partners, directors and officers, in order that membership may, where appropriate, be refused where any of the foregoing have previously engaged in improper conduct, and shall be refused where the past conduct of any of the foregoing affords reasonable grounds for belief that the applicant's business would not be conducted with integrity;

(iv) reasonable consideration of relationships with other members and other business activities to ensure the appropriateness thereof; and

(v) consideration of the ownership of applicants for membership under the criteria established in paragraph 6(E).

(C) The MFDA shall require members to confirm to the MFDA that persons that it wishes to sponsor, employ or associate with as Approved Persons comply with applicable securities legislation and are properly registered.

(D) The MFDA rules shall require a member to give prior notice to the MFDA before any person or company acquires a material registered or beneficial interest in securities or indebtedness of or any other ownership interest in the member, directly or indirectly, or becomes a transferee of any such interests, or before the member engages in any business combination, merger, amalgamation, redemption or repurchase of securities, dissolution or acquisition of assets. In each case there may be appropriate exceptions in the case of publicly traded securities, de minimis transactions that do not involve changes in de facto or legal control or the acquisitions of material interests or assets, and non- participating indebtedness.

(E) The MFDA rules shall require approval by the MFDA in respect of all persons or companies proposing to acquire an ownership interest in a member in the circumstances outlined in paragraph 6(D) and, except as provided in paragraph 6(F), for approval of all persons or companies that satisfy criteria providing for:

(i) consideration of disciplinary history, including breaches of applicable securities legislation, the rules of other self-regulatory organizations or MFDA rules, involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or civil proceedings involving business conduct or alleging fraudulent conduct or deceit, and prior business and other conduct generally; and

(ii) reasonable consideration of relationships with other members and involvement in other business activities to ensure the appropriateness thereof.

(F) The MFDA rules shall give the MFDA the right to refuse approval of all persons or companies that are proposing to acquire an ownership interest in a member in the circumstances outlined in paragraph 6(D) who do not agree to:

(i) submit to the jurisdiction of the MFDA and comply with its rules;

(ii) notify the MFDA of any changes in his, her or its relationship with the member or of any involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or in civil proceedings involving business conduct or alleging fraudulent conduct or deceit;

(iii) accept service by mail in addition to any other permitted methods of service;

(iv) authorize the MFDA to co-operate with other regulatory and self- regulatory organizations, including sharing information with these organizations; and

(v) provide the MFDA with such information as it may from time to time request and full access to and copies of any records.

7. Compliance by Members with MFDA Rules

(A) The MFDA shall enforce, as a matter of contract between itself and its members, compliance by its members and their Approved Persons with the rules of the MFDA and the MFDA shall cooperate with the Commission in ensuring compliance with applicable securities legislation relating to the operations, standards of practice and business conduct of members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.

(B) The MFDA shall conduct periodic reviews of its members and the members' Approved Persons to ensure compliance by its members and the members' Approved Persons with the rules of the MFDA and shall conduct such reviews at a frequency requested by the Commission or its staff. The MFDA shall also cooperate with the Commission in the conduct of reviews of its members and the members' Approved Persons as requested by the Commission or its staff, to ensure compliance by its members and their Approved Persons with applicable securities legislation.

(C) The MFDA shall promptly advise the MFDA IPC of any actual or apparent material breach of the rules thereof of which the MFDA becomes aware.

8. Discipline of Members and Approved Persons

(A) The MFDA shall, as a matter of contract, have the right to and shall appropriately discipline its members and their Approved Persons for violations of the rules of the MFDA and shall cooperate with the Commission in the enforcement of applicable securities legislation relating to the operations, standards of practice and business conduct of the members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.

(B) The MFDA rules shall enable it to prevent the resignation of a member from the MFDA if the MFDA considers that any matter affecting the member or any registered or beneficial holder of a direct or indirect ownership interest in securities, indebtedness or other interests in the member, or in a person or company associated or affiliated with the member or affecting the member's Approved Persons or any of them, should be investigated or that the member or any such person, company or Approved Person should be disciplined.

(C) The MFDA shall require its members and their Approved Persons to be subject to the MFDA's review, enforcement and disciplinary procedures.

(D) The MFDA shall notify the public and the media

(i) of any disciplinary or settlement hearing, as soon as practicable and in any event not less than 14 days prior to the date of the hearing, and

(ii) of the disposition of any disciplinary action or settlement, including any discipline imposed, and shall promptly make available any written decision and reasons.

(E) Any notification required under paragraph 8 (D) shall include, in addition to any other information specified in paragraph 8 (D), the names of the member and the relevant Approved Persons together with a summary of circumstances that gave rise to the proceedings.

(F) The MFDA shall maintain a register to be made available to the public, summarizing the information which is required to be disclosed under paragraphs 8 (D) and (E).

(G) The MFDA shall at least annually review all material settlements involving its members or their Approved Persons and their clients with a view to determining whether any action is warranted, and the MFDA shall prohibit members and their Approved Persons from imposing confidentiality restrictions on clients vis-à-vis the MFDA or the Commission, whether as part of a resolution of a dispute or otherwise.

(H) Disciplinary and settlement hearings shall be open to the public and media except where confidentiality is required for the protection of confidential matters. The criteria and any changes thereto for determining these exceptions shall be specified and submitted to the Commission for approval.

9. Due Process

The MFDA shall ensure that the requirements of the MFDA relating to admission to membership, the imposition of limitations or conditions on membership, denial of membership and termination of membership 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 provision for appeals.

10. Purpose of Rules

(A) The MFDA shall, subject to the terms and conditions of its recognition and the jurisdiction and oversight of the Commission in accordance with securities legislation, establish such rules as are necessary or appropriate to govern and regulate all aspects of its business and affairs and shall in so doing:

(i) seek to ensure compliance by members and their Approved Persons with applicable securities legislation relating to the operations, standards of practice and business conduct of the members;

(ii) seek to prevent fraudulent and manipulative acts and practices and to promote the protection of investors, just and equitable principles of trade and high standards of operations, business conduct and ethics;

(iii) seek to promote public confidence in and public understanding of the goals and activities of the MFDA and to improve the competence of members and their Approved Persons;

(iv) seek to standardize industry practices where appropriate for investor protection;

(v) seek to provide for appropriate discipline;

and shall not:

(vi) permit unfair discrimination among investors, mutual funds, members or others; or

(vii) impose any barrier to competition that is not appropriate.

(B) Unless otherwise approved by the Commission, the rules of the MFDA governing the conduct of member business regulated by the MFDA shall afford investors protection at least equivalent to that afforded by securities legislation, provided that higher standards in the public interest shall be permitted and are encouraged.

11. Rules and Rule-Making

MFDA will comply with the process for filing and obtaining Commission approval for by-laws, Rules and any amendments to by-laws or Rules as outlined in the JRRP, as amended from time to time.

12. Operational Arrangements and Resources

(A) The MFDA shall have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules. With the consent of the Commission, the arrangements for monitoring and enforcement may make provision for the following:

(i) one or more parts of those functions to be performed (and without affecting its responsibility) by another body or person that is able and willing to perform it; and

(ii) its members and their Approved Persons to be deemed to be in compliance with its rules by complying with the substantially similar rules of such other body or person.

The Commission's consent may be varied or revoked from time to time and may be subject to terms and conditions.

(B) The MFDA shall respond promptly and effectively to public inquiries and generally shall have effective arrangements for the investigation of complaints (including anonymous complaints) against its members or their Approved Persons. With the consent of the Commission, such arrangements may make provision for one or more parts of that function to be performed on behalf of the MFDA (and without affecting its responsibility) by another body or person that is able and willing to perform it. The Commission's consent may be varied or revoked from time to time and may be subject to terms and conditions. The MFDA and any other body or person performing such function on behalf of the MFDA shall not refrain from investigating complaints due to the anonymity of the complainant where the complaint is otherwise worthy of investigation and sufficiently detailed to permit investigation.

(C) The MFDA shall ensure that it is accessible to the public and shall designate and make available to the public the names and telephone numbers of persons to be contacted for various purposes, including making complaints and enquiries.

(D) The arrangements and resources referred to in paragraphs (A) and (B) above shall consist at a minimum of:

(i) a sufficient complement of qualified staff, including professional and other appropriately trained staff;

(ii) an adequate supervisory structure;

(iii) adequate management information systems;

(iv) a compliance department and an enforcement department with appropriate reporting structures directly to senior management, and with written procedures wherever practicable;

(v) procedures and structures that minimize or eliminate conflicts of interest within the MFDA;

(vi) inquiry and complaint procedures and a public information facility, including with respect to the discipline history of members and their Approved Persons;

(vii) guidelines regarding appropriate disciplinary sanctions; and

(viii) the capacity and expertise to hold disciplinary hearings (including regarding proposed settlements) utilizing public representatives within the meaning of the current section 19.5 of the MFDA's By-law No. 1 together with member representatives.

(E) The MFDA shall cooperate and assist with any reviews, scheduled or unscheduled, of its self-regulatory functions by the MFDA IPC or the Commission. In addition, in the event that the Commission is of the view that there has been a serious actual or apparent failure in the MFDA's fulfilment of its self-regulatory functions, the MFDA shall, where requested by the Commission, undergo an independent third party review on terms and by a person or persons satisfactory to or determined by the Commission, which review shall be at the expense of the MFDA.

(F) The MFDA shall cooperate and assist with any reviews, scheduled or unscheduled, of its corporate governance structure by the Commission. In addition, in the event that the Commission is of the view that there has been a serious weakness in the MFDA's corporate governance structure, the MFDA shall upon the request of the Commission undergo an independent third party review on terms and by a person or persons satisfactory to or determined by the Commission, which review shall be at the expense of the MFDA.

(G) The MFDA shall not make material changes to its organizational structure, which would affect its self-regulatory functions, without prior approval of the Commission.

(H) The MFDA shall comply with reporting requirements set out in Appendix A, as amended from time to time by the Commission or its staff. The MFDA shall also provide the Commission with other reports, documents and information as the Commission or its staff may request.

13. Information Sharing

The MFDA shall cooperate, by sharing information and otherwise, with the MFDA IPC, the Commission and its staff, and other Canadian federal, provincial and territorial recognized self-regulatory organizations and regulatory authorities, including without limitation, those responsible for the supervision or regulation of securities firms, financial institutions, insurance matters and competition matters. The Commission and its staff shall have unrestricted access to the books and records, management, staff and systems of the MFDA.

APPENDIX A

REPORTING REQUIREMENTS

1. Prior Notification

The MFDA will provide the Commission with at least twelve months' written notice prior to completing any transaction that would result in the MFDA:

(a) ceasing to perform its services;

(b) discontinuing, suspending or winding-up all or a significant portion of its operations; or

(c) disposing of all or substantially all of its assets.

2. Immediate Notification

The MFDA will immediately notify the Commission of the following events:

(a) the admission of a new member, including the member's name, and any terms and conditions that are imposed on the member;

(b) members whose rights and privileges or membership will be suspended or terminated, including:

(i) the member's name;

(ii) the reasons for the proposed suspension or termination; and

(iii) a description of the steps being taken to ensure that the member's clients are being dealt with appropriately;

(c) receipt of a member's intention to resign.

The notice required by this section may be provided by the MFDA issuing a public notice containing the information, provided that such public notice will be issued immediately after the decision is made for admission, suspension or termination of membership and immediately after receipt of a notice of intention to resign, as the case may be.

3. Prompt Notification

The MFDA will provide the Commission with prompt notice of the following events and situations, and in each case describe the circumstances that gave rise to the reportable event or situation, the MFDA's proposed response to ensure resolution, and, if appropriate, provide timely updates:

(a) situations that would reasonably be expected to raise concerns about the MFDA's financial viability, including but not limited to, an inability to meet its expected expenses for the next quarter or the next year;

(b) notification from any of the Recognizing Regulators that the MFDA is not in compliance with one or more of the terms and conditions of recognition of the MFDA in any jurisdiction or with the reporting requirements set out in the MOU;

(c) any material violations of securities legislation of which the MFDA becomes aware in the ordinary course operation of its business;

(d) any breach of security safeguards involving information under the MFDA's control if it is reasonable in the circumstances to believe that the breach creates a real risk of significant harm to investors, issuers, registrants, other market participants, the MFDA, the MFDA IPC, or the capital markets;

(e) actual or apparent misconduct or non-compliance by members, Approved Persons, or others, where investors, clients, creditors, members, the MFDA IPC or the MFDA may reasonably be expected to suffer serious damage as a consequence thereof, including but not limited to:

(i) where fraud appears to be present; or

(ii) where serious deficiencies in supervision or internal controls exist;

(f) situations that would reasonably be expected to raise concerns about a member's continued viability, including but not limited to, capital deficiency, early warning, and any condition which, in the opinion of the MFDA, could give rise to payments being made out of the MFDA IPC, including any condition which, alone or together with other conditions, could, if appropriate corrective action is not taken, reasonably be expected to:

(i) inhibit the member from promptly completing securities transactions, promptly segregating clients' securities as required or promptly discharging its responsibilities to clients, other members, or creditors;

(ii) result in material financial loss to the member or its clients; or

(iii) result in material misstatement of the member's financial statements;

(g) any action taken by the MFDA with respect to a member in financial difficulty;

(h) any terms and conditions imposed, varied or removed by the MFDA relating to a member;

(i) any enforcement agreement and undertaking entered into, varied or rescinded at the MFDA's request relating to a member.

4. Quarterly Reporting

The MFDA will file on a quarterly basis with the Commission a report pertaining to the MFDA's regulatory operations promptly after the report is reviewed or approved by the MFDA's Board, board committees, or senior management, as the case may be, containing at a minimum the following information and documents:

(a) a summary of ongoing initiatives, policy changes, and emerging or key issues that arose in the previous quarter for each of the MFDA's regulatory operations;

(b) a summary of all compliance examinations in progress or completed during the previous quarter, and all compliance examinations scheduled to be commenced in the upcoming quarter by the MFDA office and department, including information on repeat or significant deficiencies;

(c) a summary of all discretionary exemptions granted to individuals and members during the previous quarter;

(d) summary statistics for the previous quarter regarding all client complaints, and complaints received from other sources including, but not limited to, any other securities regulatory authority;

(e) summary statistics by MFDA office for the previous quarter regarding the caseload for each of case assessment, investigations, and prosecutions, including the length of time the files have been open;

(f) a summary of enforcement files that were referred to any of the Recognizing Regulators during the previous quarter; and

(g) the MFDA's regulatory staff complement, by function, and details of any material changes or reductions in regulatory staffing, by function, during the previous quarter.

5. Annual Reporting

The MFDA will file on an annual basis with the Commission a report pertaining to the MFDA's regulatory operations promptly after the report is reviewed or approved by the MFDA's Board, board committees or senior management, as the case may be, containing at a minimum the following documents:

(a) a self-assessment containing information as specified by Commission staff from time to time and include the following information:

(i) an assessment of how the MFDA is meeting its regulatory mandate, including an assessment against the recognition criteria and the terms and conditions in Schedule A to the Recognition Order;

(ii) an assessment against its strategic plan;

(iii) a description of trends seen as a result of compliance reviews, investigations and prosecutions conducted, and complaints received, including the MFDA's plan to deal with any issues;

(iv) whether the MFDA is meeting its benchmarks, and reasons for any benchmarks not being met;

(v) a description and update on significant projects undertaken by the MFDA; and

(vi) a description of issues raised by any of the Recognizing Regulators, external auditors or internal audit, which are being tracked by the MFDA's senior management, together with a summary of the progress made on their resolution; and

(b) certification by the MFDA's Chief Executive Officer and General Counsel that the MFDA is in compliance with the terms and conditions applicable to it in Schedule A to this Recognition Order.

6. Financial Reporting

(a) The MFDA will file with the Commission unaudited quarterly financial statements with notes within 60 days after the end of each financial quarter.

(b) The MFDA will file with the Commission audited annual financial statements accompanied by the report of an independent auditor within 90 days after the end of each fiscal year.

7. Other Reporting

(a) The MFDA will provide the Commission on a timely basis with the following information and documents upon publication or completion of review and approval by the MFDA's Board, board committees, or senior management, as the case may be:

(i) the results of any corporate governance review referred to in term and condition 12(F) of Schedule A to this Recognition Order;

(ii) material changes to the code of business ethics and conduct and the written policy about managing potential conflicts of interests of members of the MFDA's Board;

(iii) changes in the members of the MFDA's Board;

(iv) the financial budget for the current year, together with the underlying assumptions, that have been approved by the MFDA's Board;

(v) enterprise risk management reports, and any material changes to enterprise risk management methodology;

(vi) the internal audit charter, annual internal audit plan, and internal audit reports, or similar interval review documents;

(vii) the annual report for the current year;

(viii) material changes to the compliance or enforcement processes or scope of work, including risk assessment models for:

(A) Financial Compliance;

(B) Sales Compliance; and

(C) Enforcement.

(b) The MFDA will provide the Commission with reasonable prior notice of any document that it intends to publish or issue to the public, or to any class of members which, in the opinion of the MFDA, could have a significant impact on:

(i) its members and others subject to its jurisdiction; or

(ii) the capital markets generally.

(c) The MFDA will, upon request, provide the Commission with the following information and documents as soon as practicable:

(i) information concerning closed investigations or prosecutions which did not lead to disciplinary or settlement proceedings including the final investigation report and recommendation memorandum; and

(ii) information concerning enforcement matters that resulted in disciplinary or settlement proceedings including the final investigation report and recommendation memorandum.

2.2.7 Crystal Wealth Management System Limited et al. – s. 127(8)

IN THE MATTER OF
CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED, CLAYTON SMITH, CLJ EVEREST LTD, 1150752 ONTARIO LIMITED, CRYSTAL WEALTH MEDIA STRATEGY, CRYSTAL WEALTH MORTGAGE STRATEGY, CRYSTAL ENLIGHTENED RESOURCE & PRECIOUS METAL FUND, CRYSTAL WEALTH MEDICAL STRATEGY, CRYSTAL WEALTH ENLIGHTENED FACTORING STRATEGY, ACM GROWTH FUND, ACM INCOME FUND, CRYSTAL WEALTH HIGH YIELD MORTGAGE STRATEGY, CRYSTAL ENLIGHTENED BULLION FUND, ABSOLUTE SUSTAINABLE DIVIDEND FUND, ABSOLUTE SUSTAINABLE PROPERTY FUND, CRYSTAL WEALTH ENLIGHTENED HEDGE FUND, CRYSTAL WEALTH INFRASTRUCTURE STRATEGY, CRYSTAL WEALTH CONSCIOUS CAPITAL STRATEGY and CRYSTAL WEALTH RETIREMENT ONE FUND

Janet Leiper, Commissioner and Chair of the Panel

April 9, 2018

ORDER
Subsection 127(8) of the *Securities Act*, RSO 1990, c S.5

WHEREAS on April 9, 2018, the Ontario Securities Commission (the "**Commission**") held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, with respect to a motion by Staff ("**Staff**") of the Commission to extend the temporary order issued on April 6, 2017, amended on April 7, 2017, and extended on April 13, 2017, April 28, 2017 and October 2, 2017 (the "**Temporary Order**");

ON READING the materials filed by Staff, including the consent email dated March 28, 2018 from counsel for the receiver, Grant Thornton Limited, which was appointed by order of the Ontario Superior Court of Justice (Commercial List) pursuant to section 129 of the *Securities Act*, RSO 1990, c S.5 (the "**Act**") on April 26, 2017 (the "**Receiver**"), and the consent email dated March 27, 2018 from Clayton Smith ("**Smith**"), and on considering the oral submissions of Staff, appearing in person, and no one appearing for the Receiver or Smith;

IT IS ORDERED THAT:

1. pursuant to subsection 127(8) of the Act, the Temporary Order is extended until July 5, 2018, or until further order of the Commission, without prejudice to the right of any of the parties to seek to vary the Temporary Order on application to the Commission; and

2. the hearing of this matter is adjourned until July 4, 2018 at 10:00 a.m. or such other date and time as provided by the Office of the Secretary and agreed to by the parties.

"Janet Leiper"

2.2.8 Dennis L. Meharchand and Valt.X Holdings Inc. – s. 127(1)

FILE NO.: 2017-4

IN THE MATTER OF
DENNIS L. MEHARCHAND and VALT.X HOLDINGS INC.

Timothy Moseley, Vice-Chair and Chair of the Panel
Deborah Leckman, Commissioner
Robert P. Hutchison, Commissioner

April 9, 2018

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

WHEREAS on April 9, 2018, the Ontario Securities Commission held the hearing of the final interlocutory attendance at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario; and

ON HEARING the submissions of the representatives for Staff of the Commission and for Dennis L. Meharchand, no one appearing on behalf of Valt.X Holdings Inc. although properly served, and considering Staff's consent to Mr. Meharchand's request for a revised deadline for the delivery of the summary of his anticipated evidence;

IT IS ORDERED THAT:

1. By no later than April 23, 2018, Mr. Meharchand shall provide to Staff the summary of his anticipated evidence; and

2. By no later than April 30, 2018, Staff shall serve its reply materials, if any, in the form of sworn affidavits (in which case Staff shall also file the affidavits) and/or summaries of the anticipated evidence of any witnesses who are expected to give oral testimony.

"Timothy Moseley"

"Deborah Leckman"

"Robert P. Hutchison"

2.3 Orders with Related Settlement Agreements

2.3.1 Mackenzie Financial Corporation – ss. 127(1), 127.1

FILE NO.: 2018-15

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION

Janet Leiper, Commissioner and Chair of the Panel
William J. Furlong, Commissioner

April 6, 2018

ORDER
Subsections 127(1) and 127.1 of
the *Securities Act*, RSO 1990, c S.5

WHEREAS on April 6, 2018 the Ontario Securities Commission (the **Commission**) held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario to consider the Application made jointly by Mackenzie Financial Corporation (**Mackenzie**) and Staff of the Commission for approval of a settlement agreement dated April 4, 2018 (the **Settlement Agreement**);

ON READING the Joint Request for a Settlement Hearing, including the Statement of Allegations dated April 4, 2018, the Settlement Agreement dated April 4, 2018, and the Consent of the parties to an Order in substantially this form, and on hearing the submissions of counsel for both parties;

IT IS ORDERED THAT:

1. The Settlement Agreement is approved pursuant to subsection 127(1) of the *Securities Act*, RSO 1990 c S.5, as amended (the **Act**);

2. Mackenzie is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act; and

3. Mackenzie shall:

   (i) submit to a review of its practices and procedures by an independent consultant (the Consultant), at Mackenzie's expense, as set out in Schedule "B" to the Settlement Agreement until a Deputy Director or a Manager in the Compliance and Registrant Regulation Branch of the Commission is satisfied that the conclusions expressed in the Attestation Letter by the Consultant described in Schedule "B" are valid, pursuant to paragraph 4 of subsection 127(1) of the Act;

   (ii) pay an administrative penalty in the amount of $900,000 to the Commission, which amount shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act, pursuant to paragraph 9 of subsection 127(1) of the Act; and

   (iii) pay costs of the Commission's investigation in the amount of $150,000, to the Commission, pursuant to section 127.1 of the Act.

"Janet Leiper"

"William J. Furlong"

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION AND
MACKENZIE FINANCIAL CORPORATION

SETTLEMENT AGREEMENT

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 sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5, as amended (the "**Act**"), it is in the public interest for the Commission to make certain orders in respect of Mackenzie Financial Corporation ("**Mackenzie**").

2. Investment fund managers ("**IFMs**") are prohibited from making a payment of money or providing a non-monetary benefit to a participating dealer or dealing representative ("**DR**") of a participating dealer in connection with the distribution of securities, except in certain permitted circumstances under Parts 3 and 5 of National Instrument 81-105 *Mutual Fund Sales Practices* ("**NI 81-105**"). The Companion Policy to NI 81-105 states that NI 81-105 was adopted in order to discourage sales practices and compensation arrangements that could be perceived as inducing dealers and their representatives to sell mutual fund securities on the basis of incentives they were receiving rather than on the basis of what was suitable for and in the best interests of their clients. The purpose of NI 81-105 is to provide a minimum standard of conduct to ensure that investor interests remain uppermost in the actions of mutual fund industry participants when they are distributing mutual fund securities and that conflicts of interest arising from sales practices and compensation arrangements are minimized.

3. Mackenzie is registered with the Commission as, among other things, an IFM. Mackenzie's investment fund products ("**Mackenzie Products**") are distributed to investors by DRs registered with participating dealers, both third party and affiliated dealers.

4. As summarized below, between May 2014 and December 2017, Mackenzie failed to comply with NI 81-105 and failed to meet the minimum standards of conduct expected of industry participants in relation to certain sales practices. In addition, Mackenzie did not have systems of controls and supervision over its sales practices that were sufficient to provide reasonable assurances that it was complying with its obligations under NI 81-105 and did not maintain adequate books, records and other documents to demonstrate Mackenzie's compliance with NI 81-105.

5. In particular, Mackenzie permitted excessive spending on DRs for promotional activities. For example in each of 2016 and 2017, Mackenzie's management approved of a one-day golf and reception event held at a golf club in the Eastern Townships of Quebec, at a cost to Mackenzie of $1,149 per DR for 28 DRs in 2016 and 46 DRs in 2017.

6. These golf events occurred after April 2014, when staff of the Compliance and Registrant Regulation Branch ("**CRR**") of the Commission communicated their view to Mackenzie that a golf event held by Mackenzie in Bermuda at a cost of $565 to $730 per DR per day seemed excessive.

7. Mackenzie also permitted the provision of items bearing a Mackenzie logo ("**Logoed Items**") and/or items with no Mackenzie logo ("**Non-Logoed Items**") (collectively "**Items**") to DRs that were not of minimal value (and were therefore excessive) and/or were extensive, frequent and/or were not promotional in nature including by:

   (a) putting sales compliance guidelines in place that permitted annual spending of more than $1,250 on a DR on Items and that permitted the provision of single Items to DRs at a cost of up to $250;

   (b) approving Items included in Mackenzie's promotional store ("**Promo Store**") that were distributed to DRs including a Nespresso espresso machine ($278) and a Sony iPod docking station ($260);

   (c) permitting gifts of tickets to various events to DRs without requiring that a Mackenzie employee attend the event including tickets to Toronto Blue Jays baseball ("**Jays**") games (at costs of over $300) and to concerts such as Metallica ($346);

(d) hosting promotional activities at which DRs received excessive gifts of clothing such as custom-fit dress shirts ($226); and

(e) providing Apple iPad minis (approximately $343 each) for use at conferences to 270 DRs who attended Mackenzie conferences in 2014 and to 180 DRs who attended Mackenzie conferences in 2015 which such DRs were permitted to retain after the completion of the conferences.

8. In addition, Mackenzie's sales compliance guidelines permitted it to make financial contributions to non-educational participating dealer events which are not a permitted spending category under NI 81-105 and from September 2015 to December 2017, Mackenzie made financial contributions to 102 such dealer events.

PART II – JOINT SETTLEMENT RECOMMENDATION

9. Staff of the Commission ("**Staff**") agree to recommend settlement of the proceeding commenced by the Notice of Hearing dated April 4, 2018 (the "**Proceeding**") against Mackenzie according to the terms and conditions set out in Part VI of this Settlement Agreement (the "**Settlement Agreement**"). Mackenzie agrees to the making of an order in the form attached as Schedule "A" (the "**Order**"), based on the facts set out below.

10. For the purposes of this Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, Mackenzie agrees with the facts as set out in Parts III and IV and the conclusions set out in Part V of this Settlement Agreement.

PART III – AGREED FACTS

A. Mackenzie

11. Since February 17, 2012, Mackenzie has been registered with the Commission as an IFM. Mackenzie has been registered as an exempt market dealer, a portfolio manager and a commodity trading manager since September 28, 2009, and was previously registered in a number of historical registration categories.

B. The Legislative Framework

12. Subsection 2.1(1) of NI 81-105 states, among other things, that no member of the organization of a mutual fund shall, in connection with the distribution of securities of the mutual fund:

(a) make a payment of money to a participating dealer or a DR;

(b) provide a non-monetary benefit to a participating dealer or a DR; or

(c) pay for or make reimbursement of a cost or expense incurred or to be incurred by a participating dealer or a DR.

13. Pursuant to section 1.1 of NI 81-105, a "member of the organization" referred to in subsection 2.1(1) includes the manager of the mutual fund or an IFM (the "**Fund Manager**").

14. Subsection 2.1(2) of NI 81-105 provides the following exceptions to subsection 2.1(1) and allows a Fund Manager to:

(a) make a payment of money or provide a non-monetary benefit to a participating dealer, or pay for or make reimbursement of a cost or expense incurred or to be incurred by a participating dealer or its DRs, if permitted by Part 3 or 5 of NI 81-105; and

(b) provide a non-monetary benefit to a DR, if permitted by Part 5 of NI 81-105.

15. Parts 3 and 5 of NI 81-105 set out certain limited circumstances in which Fund Managers are permitted to provide monetary and non-monetary benefits to DRs and participating dealers.

16. Section 5.2(e) of NI 81-105 allows a Fund Manager to provide DRs with a non-monetary benefit through attendance at a conference organized by the Fund Manager if, among other things, the costs of the conference are reasonable having regard to the purpose of the conference.

17. Section 5.6 of NI 81-105 allows a Fund Manager to provide DRs with non-monetary benefits of a promotional nature and of minimal value, and to engage in business promotion activities that result in a DR receiving a non-monetary benefit if, among other things, the provision of the benefits and activities is neither so extensive nor so frequent as to

cause a reasonable person to question whether the provision of the benefits or activities improperly influence the investment advice given by the DR to his or her clients.

C. Background

1. The CRR Review of the Bermuda Event

18. During the period March to May 2014, CRR staff engaged in discussions with Mackenzie regarding a three-day golf event held in Bermuda in 2013 (the "**Bermuda Event**"). During the course of these discussions, CRR staff raised a number of issues with Mackenzie in relation to this event, including advising Mackenzie in April 2014 of CRR staff's view that the cost of $565 to $730 per DR per day for the event seemed excessive. On this issue, Mackenzie advises that at the time, it focussed on whether it should continue to hold these types of promotional activities outside of the continental US and Canada.

19. In May 2014, Mackenzie advised CRR staff of a number of measures it was taking to rectify the issues raised by CRR staff and to prevent any future re-occurrences. These measures included:

    (a) enhancing Mackenzie's sales practice compliance program including the implementation of Salesforce (a customer relationship management software program);

    (b) training on the enhanced program;

    (c) posting of refreshed training materials on Mackenzie's intranet including a document entitled "Sales Practice Rules – April 2014" (the "**April 2014 Training Materials**") (a copy of which were provided to CRR staff at that time);

    (d) a review of Mackenzie's internal controls related to its sales practices;

    (e) enhancing Mackenzie's testing program; and

    (f) enhancing Mackenzie's guidelines for costs of specific promotional items and activities in order to ensure that Mackenzie's costs related to sales practices were reasonable.

2. Mackenzie's Sales Compliance Guidelines

20. In December 2014, Mackenzie adopted sales compliance guidelines (the "**Sales Compliance Guidelines**") which included:

    (a) an annual spending limit on Non-Logoed Items and activities of $1,800 per year ("**$1,800 Annual Spending Limit**") (which was a change to the prior limit of $1,500 per year);

    (b) a maximum of $250 for a single or multiple Non-Logoed Item(s) (which amount had to be included in the $1,800 Annual Spending Limit);

    (c) outside of the $1,800 limit referred to in (a) above, DRs could also receive Logoed Items under $50 (for which there was no frequency limit) and a maximum of four Logoed Items of $50 and greater;[1]

    (d) an annual frequency limit of no more than four promotional activities at a cost of more than $100 per event per DR;

    (e) in relation to (d) above, a spending limit of $500 per DR for a single event ("**Large Activity Limit**"); and

    (f) specific food and beverage spending limits per DR, including a $200 dinner limit.

21. As set out in greater detail below, after May 2014, Mackenzie provided excessive non-monetary benefits to DRs in breach of NI 81-105 and, in some cases, in breach of its Sales Compliance Guidelines.

D. Excessive Spending on One-Time Events

1. Approved Excessive Spending on One-Time Events

[1] An upper limit of $250 for Logoed Items was added to the Sales Compliance Guidelines in May 2015.

22. The Sales Compliance Guidelines permitted spending on DRs in excess of the limits referred to in paragraph 20 above, if pre-approval was obtained from management. For example, the $500 spending limit for a single event could be exceeded with the pre-approval of the Sales Team Regional Vice President (for events up to $1,000) or the approval of the Head of Retail Sales (for events over $1,000).

23. During the period April 2016 to June 2017, Mackenzie management approved the following excessive golf events:

Event	Date	No. of DRs	Cost Per DR
Golf and dinner at a golf club in Washington D.C.	April 2016	4	$940
Golf and dinner at a golf club in Washington D.C.	May 2016	2	$839
Golf and reception at a golf club in the Eastern Townships of Quebec	September 2016	28	$1,149
Golf and reception at a golf club in the Eastern Townships of Quebec	June 2017	46	$1,149

24. In addition, in May 2016, management approved excessive promotional activity spending on Toronto Raptors basketball ("**Raptors**") play-off games which resulted in 12 DRs receiving a benefit of over $800 each and eight DRs receiving a benefit of over $660 each.

2. Non-Approved Excessive Spending on One-Time Events

25. There were other instances in 2015 and 2016 when Mackenzie staff engaged in excessive spending on one-time events on DRs (including, on the DR and the DR's guests) without the pre-approval of management and in excess of the $500 Large Activity Limit.

26. Some examples in 2015 include:

Event	No. of DRs	No. of Guests of DR	Cost per DR/guest	Total benefit to DR
Toronto Maple Leafs hockey ("**Leafs**") game	1	1	$403	$806
Raptors game	1	1	$378	$756
Leafs game	1	1	$365	$730
Detroit Lions football game	16	0	$657	$657
Concert at Rogers Stadium	1	1	$328	$656

27. Some examples in 2016 include:

Event	No. of DRs	No. of Guests of DR	Cost per DR/guest	Total benefit to DR
Montreal Canadiens hockey ("**Canadiens**") game	1	1	$490	$981
Canadiens game	1	1	$416	$833
Canadiens game	3	1	$374	$748
Val Saint-Côme ski resort, Quebec	1	3	$185	$740
Canadiens game	1	0	$691	$691
Raptors game	1	1	$345	$690
Detroit Tigers baseball game ("**Detroit Tigers**")	2	1	$304	$608

28. However, not all of the spending on DRs referred to above in excess of the $500 Large Activity Limit was treated by Mackenzie as a breach of this limit as Mackenzie did not attribute the cost of a DR's guest to the DR in determining whether the total benefit received by the DR complied with the Large Activity Limit but allocated the cost of the DR's guest to the DR's $1,800 Annual Spending Limit.

E. Excessive Spending on Single Items

1. Stocking Excessive Items in the Mackenzie Promo Store

29. Among other requirements, in order for the gift of an item to be permissible under section 5.6 of NI 81-105, the item must be of a promotional nature and of minimal value.

30. Mackenzie's April 2014 Training Materials identified acceptable promotional items as being "pens, calendars, t-shirts, hats, mugs, paperweights, golf balls." These examples duplicated the examples of reminder advertising referred to in section 7.6 of the Companion Policy to NI 81-105 as being the type of promotional items contemplated by section 5.6 of NI 81-105 and as being non-monetary benefits of a promotional nature and of minimal value.

31. However, from at least 2014 to 2017, Mackenzie maintained the Promo Store which contained a large number of Items (including Non-Logoed Items) available for distribution to DRs that were not consistently promotional in nature and were not of minimal value, including electronics, household items, watches, luggage, and sports equipment, a few examples of which are summarized below:

Promo Store Item	Cost
Apple iPad mini	$329
Leather computer briefcase	$303
Duffel bag	$296
Nespresso espresso machine	$278
Sony iPod docking station with tuner	$260
Apple iPod touch	$229
Bose speakers	$210

32. From 2015 to 2017, Mackenzie provided Items to DRs that were not of minimal value. These Items were sourced both from in and outside of the Promo Store. Some examples include:

Item(s)	Cost
Golf putter	$452
Golf shoes	$271
Golf putter	$266
GPS watch	$242
Bose Soundlink speaker	$237
Activity trackers	$229
Bluetooth speaker	$226
Golf bag	$195
Sony digital camera	$181

2. Gift Policy Permitted Provision of Excessive Single Items in Breach of NI 81-105

33. As discussed above, as part of the Sales Compliance Guidelines, Mackenzie permitted its staff to purchase single Items for DRs at a cost of up to $250. This policy resulted in Mackenzie providing gifts to DRs that were not of minimal value and, in some instances, were not promotional in nature.

3. Gifts of Clothing in Breach of NI 81-105

34. From at least 2015 to 2017, Mackenzie provided Items of clothing (typically custom-fit dress shirts and golf shirts) that were not of minimal value and were not promotional in nature to DRs as part of promotional events.

35. The Mackenzie logos on the custom-fit dress shirts were placed on the inside of the collar, inside the label, at the bottom edge of the shirt or on the sleeve of the shirt and were not prominently displayed on the exterior of the shirts. In some cases, there was no Mackenzie logo on the clothing.

36. In 2015 and 2016, Mackenzie provided over 190 of these types of custom-fit dress shirts that were not promotional in nature.

37. These custom-fit dress shirts were also not of minimal value with the maximum cost to Mackenzie of the dress-shirts being $226 in some limited cases. For example, in 2016, seven DRs received a custom-fit dress shirt at a cost of $226 per shirt as part of an event involving a golf game, dinner and cocktails at a golf course in Inverness, Nova Scotia, all paid for by Mackenzie.

4. Gifts of Tickets to Various Events in Breach of NI 81-105

38. As part of the Sales Compliance Guidelines introduced in December 2014, Mackenzie allowed its staff to provide tickets to DRs for events without requiring Mackenzie staff to be in attendance at the event, provided that the value of the tickets was within a $250 maximum limit for gifts. This policy resulted in Mackenzie providing gifts to DRs of a non-promotional nature that were not of minimal value.

39. Since at least 2014, Mackenzie has been gifting ticket(s) to events to DRs that were neither of minimal value nor promotional in nature and, in some cases, after December 2014, breached Mackenzie's own $250 limit. Examples include gifts of ticket(s) to the following events:

Year	Event Ticket(s)	No. of Guests of DR	Cost per DR/Guest	Total Benefit to DR
2014	Imagine Dragons concert	0	$300	$300
2014	Jays game	3	$60	$240
2014	Rod Stewart concert	1	$89.50	$179
2015	Madonna concert	1	$196	$392
2015	Jays game	3	$80.25	$321
2015	Vancouver Open	1	$152	$304
2015	The Weeknd concert	1	$144	$288
2015	Jays game	1	$137.50	$275
2016	Jays game	5	$135.83	$815
2016	Jays game	1	$134.50	$269
2017	Canadian Open tickets	1	$122	$244
2017	Detroit Tigers game	3	$50.25	$201

5. Excessive Gifting with the Approval of Management

40. Since at least 2014, Mackenzie has gifted Items to DRs above $250 with the approval of management. The Sales Compliance Guidelines introduced in December 2014 specifically permitted the gifting of Items above $250 with the pre-approval of the Sales Team's Regional Vice-President, including gifts of tickets to events.

41. In 2014, Mackenzie provided gifts to DRs including Sony iPod Docking Stations ($260) to at least 5 DRs and a Nespresso Espresso Machine ($278) to at least one DR with the approval of management.

42. From 2015 to 2017, Mackenzie provided gifts of ticket(s) to DRs to the following events with the approval of management:

Event Ticket(s)	No. of Guests of Dr	Cost per DR/Guest	Total Benefit to DR
Jays game	3	$68.75	$275
Canadiens game	1	$143.50	$287
Jays playoff game	0	$310	$310
Charitable dinner event	0	$287	$287
Metallica concert	1	$173	$346

43. As a result of the above, from 2014 to 2017, Mackenzie provided Items to DRs that were not promotional in nature nor of minimal value with the approval of management.

F. Excessive Spending on Combined Items

44. In order for gifts of items of a promotional nature and of minimal value to be permissible under section 5.6 of NI 81-105, the provision of these items must be neither so extensive nor so frequent as to cause a reasonable person to question whether the provision of these benefits improperly influences the investment advice given by the DR to his or her clients.

45. As set out below, from December 2014 to November 2017, Mackenzie adopted policies that permitted Mackenzie to provide extensive Items on a frequent basis to DRs in breach of section 5.6 of NI 81-105.

46. In particular, the Sales Compliance Guidelines introduced in December 2014 permitted spending on:

(a) an unlimited number of Logoed Items under $50; and

(b) four Logoed Items per calendar year with a value of $50 or greater,

both of which categories were excluded from the $1,800 Annual Spending Limit.

47. These Logoed Items could be provided in addition to Non-Logoed items of a single or aggregate value of $250 (which gifts were required to be included in the $1,800 Annual Spending Limit).

48. By May 22, 2015, Mackenzie amended its Sales Compliance Guidelines to place a $250 limit on the four logoed Items per calendar year above $50. However, it continued to allow its staff to provide an unlimited number of Logoed Items under $50 to DRs. The $250 Non-Logoed Items limit remained the same.

49. The result was that from May 2015 to March 2017, Mackenzie could spend up to $1,250 per year on Logoed and Non-Logoed Items on a DR, only $250 of which was to be included in the $1,800 Annual Spending Limit, and Mackenzie could also provide an unlimited amount of Logoed Items under $50 to a DR.

50. Although Mackenzie amended its Sales Compliance Guidelines in March 2017 to reduce the total allowable spending on promotional Items, Mackenzie still permitted its staff to provide total Items (including Logoed and Non-Logoed Items) of up to $750 per DR per year. In November 2017, Mackenzie announced to its staff that effective January 1, 2018, the total annual Item limit was reduced to $250.

51. Mackenzie's policies on Items contained in its Sales Compliance Guidelines from December 2014 to October 2017 permitted and resulted in extensive and frequent annual spending on Items for DRs contrary to section 5.6 of NI 81-105. This non-compliant spending included more than 80 instances in 2015 and more than 100 instances in each of 2016 and 2017 respectively.

G. Mackenzie Conferences

1. Excessive Gifts of iPad Minis

52. Mackenzie hosted six mutual fund sponsored conferences in 2014 and 2015 pursuant to section 5.2 of NI 81-105. Mackenzie provided an Apple iPad mini (with a value of approximately $343) to the 270 DRs who attended its conferences in 2014 and the 180 DRs who attended its conferences in 2015.

53. The provision of the Apple iPad minis to DRs did not comply with section 5.6 of NI 81-105 as they were not of minimal value.

54. While Mackenzie intended for conference attendees to use the iPad minis to access its website and the conference materials during the conference, this goal should have been pursued in a manner that did not result in DRs receiving items that were not of minimal value.

2. Excessive Dinner Costs

55. Section 5.2 of NI 81-105 allows a Fund Manager to provide a non-monetary benefit to a DR by allowing the DR to attend a conference organized and presented by the Fund Manager provided that, among other requirements, the costs relating to the organization and presentation of the conference are reasonable having regard to the purpose of the conference (subsection 5.2(e) of NI 81-105).

56. In some cases, the dinner costs at the Mackenzie conferences in 2014 and 2015 significantly exceeded Mackenzie's $200 dinner limit and were unreasonable, including a May 2015 conference dinner that had a budgeted and actual cost per person of almost $500.

57. Mackenzie also failed to include all ancillary costs (such as event planning, facility and related staff costs) associated with evening activities at the conferences when determining the reasonableness of the conference costs under section 5.2(e) of NI 81-105.

H. Spending Category Not Permitted Under NI 81-105

58. As part of the Sales Compliance Guidelines introduced in December 2014, Mackenzie included a category of spending on DRs entitled "non-educational dealer events". This category permitted Mackenzie to support a request from a participating dealer to pay a portion of the participating dealer's costs to host a non-educational event for DRs. The Sales Compliance Guidelines provided that any payment made by Mackenzie had to be made directly to the vendor (e.g. caterer or venue) and that the total amount paid by Mackenzie for the non-educational dealer event was to be equally allocated to the DRs attending the event towards the $1,800 Annual Spending Limit pertaining to those DRs. However, this latter requirement was not consistently followed. In any event, solicitations for a contribution to a participating dealer event and payments by an IFM towards a participating dealer event may only be made if the participating dealer is holding an educational event pursuant to section 5.5 of NI 81-105.

59. From September 2015 to December 2017, Mackenzie made financial contributions to 102 non-educational dealer events that did not meet the requirements of section 5.5 of NI 81-105, including contributions of:

    (a) $10,000 for a lunch, room rental and speaker for 66 DRs attending a dealer event at a hotel in Grand Bend, Ontario in 2015;

    (b) $21,859 for a cocktail reception for 330 DRs attending a dealer event at a hotel in Montreal, Quebec in 2016; and

    (c) $5,000 for the room rental and lunch for 42 DRs attending a dealer event at a hotel in Whistler, British Columbia in 2017.

I. Lack of Controls over Mackenzie's Sales Practices

60. Pursuant to section 32(2) of the Act and section 11.1 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**"), Mackenzie was required to maintain a system of controls and supervision around its sales practices sufficient to provide reasonable assurances that it was complying with its obligations under NI 81-105.

61. In May 2014, Mackenzie undertook to review and enhance its controls and testing in relation to its sales practices and, thereafter, did implement changes to its systems and controls. Despite these changes, from May 2014 to October

2017, Mackenzie failed to impose systems of control and supervision sufficient to provide reasonable assurances that it was complying with its obligations under NI 81-105.

1. Failure to Record all Costs Associated with the Same Event

62. In particular, Mackenzie failed to consistently ensure that all costs associated with the same event were attributed to a DR for the purpose of Mackenzie's system for tracking benefits provided to DRs (the "**DR Spending Records System**"). On a number of occasions, Mackenzie did not ensure that the cost of tickets used by a DR as part of a promotional event or as a gift was properly allocated to that DR. For example, in 2017, Mackenzie identified a total of $33,000 in tickets (relating to the period 2015 to 2017) that were given but not allocated to specific DRs on Mackenzie's DR Spending Records System.

2. Failure to Combine all Costs Related to the Same Event

63. Mackenzie failed to consistently ensure that all costs associated with the same event were properly combined in determining whether the spending limit of $500 per DR for a single event had been breached. For example, in February 2015, a Bryan Adams concert with a cost of $560 was not identified as a breach of this spending limit because the catering costs were paid several months before the ticket costs associated with this event were incurred.

3. Undetected Excessive Spending from the Failure to Include the Costs of a DR's Guest(s)

64. In addition, as noted above, Mackenzie failed to attribute the cost of a DR's guest to the DR in determining whether the total benefit received by the DR from an event complied with its $500 Large Activity Limit. For example, where the cost of an event exceeded $500 but half of that cost was to pay for the DR's guest, Mackenzie did not consider the event to be in breach of its $500 Large Activity Limit. However, for such events, the DR received a non-monetary benefit from the attendance of their guest which should have been counted towards the $500 Activity Limit. Mackenzie did allocate the cost of the DR's guest to the DR's $1,800 Annual Spending Limit.

4. Failure to Identify Breaches of Mackenzie's Sales Compliance Guidelines Through Mackenzie's Internal Controls and Testing

65. In February 2017, Mackenzie reported to Staff that it had identified 31 breaches of Mackenzie's internal sales practice limits during the period 2015 to 2016. However, during the course of Staff's investigation in 2017, Mackenzie discovered an additional 42 breaches of these limits for the same period which were not detected through Mackenzie's regular internal testing procedures.

5. Conclusions regarding Controls and Supervision

66. As a result of the above, during the period May 2014 to October 2017, Mackenzie failed to adequately:

(a) train its employees who provided non-monetary benefits to DRs on the requirements of NI 81-105 and on the DR Spending Records System;

(b) supervise the employees who provided non-monetary benefits to DRs and the employees entering information into the DR Spending Records System;

(c) consistently record all of the costs associated with the same event into its DR Spending Records System; and

(d) test its DR Spending Records System and internal controls, which resulted in excessive spending on DRs that continued during the period May 2014 to October 2017.

67. As a result, during the period May 2014 to October 2017, Mackenzie failed to establish and maintain systems of controls and supervision around its sales practices sufficient to provide reasonable assurances that it was complying with its obligations under section 2.1 and Part 5 of NI 81-105 and was therefore in breach of section 32(2) of the Act and section 11.1 of NI 31-103.

J. Failure to Maintain Adequate Books and Records in Relation to Mackenzie's Sales Practices

68. Mackenzie was required to maintain such books, records and other documents as was reasonably required to demonstrate its compliance with Part 5 of NI 81-105.

69. The Sales Compliance Guidelines defined the value of a gift to be the amount paid by Mackenzie for the item. However, Mackenzie management allowed an exception to this policy with regard to the recording of the iPad minis

provided to DRs attending the 2014 and 2015 conferences and allowed deductions for Mackenzie's savings on photocopying and other costs when recording the value of the iPad mini gifts on the DR Spending Records System. Mackenzie attributed a reduced gift amount of $132 in 2014 and $121 in 2015 for the iPad minis rather than the actual purchase price of approximately $343 for these items.

70. During the period May 2014 to October 2017, Mackenzie also:

(a) failed to enter all expenditures on DRs into the DR Spending Records System;

(b) did not consistently track the names of DRs who received tickets to events; and

(c) did not consistently track the names of its employees who attended an event with a DR in order to determine whether the event was a promotional activity or a gift to the DR.

71. In addition, during this period, Mackenzie discovered that incorrect information had been entered into the DR Spending Records System by:

(a) on one occasion, attributing a promotional activity to the wrong DR, which had the effect of avoiding the applicable frequency limit on promotional activities over $100 in relation to the DR who received the benefit; and

(b) on another occasion, reporting that two Mackenzie staff members and their guests had attended an event, when they had not, which had the effect of reducing the per-person cost of the event so as to be within the Large Activity Limit.

72. As a result of all of the above, during the period May 2014 to October 2017, Mackenzie failed to maintain adequate books, records and other documents as was reasonably required to demonstrate its compliance with Part 5 of NI 81-105 and was therefore in breach of paragraph 3 of subsection 19(1) of the Act.

PART IV – MITIGATING FACTORS

A. Systems Enhancements and Revisions to the Sales Compliance Guidelines

73. Mackenzie advises that it has dedicated significant financial and human resources to enhance its systems of controls and supervision for sales practices including the implementation of Salesforce (as noted above, a customer relationship management software program) for use in expense management and the implementation of Concur for use in uploading and managing receipts. The implementation of Salesforce and Concur has occurred in phases with the software having to be configured and customized for Mackenzie's purposes. This process was substantially completed by mid-2016.

74. In September 2017, while Staff's investigation into the matters in issue was ongoing, Mackenzie retained an independent consultant (the "**Consultant**") to assess the quality of Mackenzie's controls around its sales practices in light of the requirements of NI 81-105. The Consultant noted that overall Mackenzie has demonstrated a continuously improving compliance culture and since 2014 has seen increased investment in resources, both people and systems, focused on sales practices compliance.

75. In respect of Mackenzie's systems and record keeping for sales practices, the Consultant found that the Salesforce/Concur implementation has greatly increased transparency for both the sales teams and compliance.

76. In a report dated October 31, 2017, the Consultant made a series of recommendations for enhancing Mackenzie's sales practices compliance program which Mackenzie is in the process of implementing.

77. As part of this Settlement Agreement, the Consultant will conduct a review of Mackenzie's sales practices and continue its review of Mackenzie's internal controls and make recommendations to Mackenzie to ensure that Mackenzie's sales practices and internal controls comply with the requirements of NI 81-105, section 32(2) of the Act and section 11.1 of NI 31-103. Thereafter, the Consultant will conduct testing to ensure that its recommendations have been fully implemented. The Consultant has been approved by a Deputy Director of the CRR branch of the Commission.

B. Promo Store and iPad Minis

78. Most of the Items in the Promo Store were not excessive Items.

79. With respect to the Apple iPad minis provided to DRs who attended six mutual fund sponsored conferences between 2014 and 2015, Mackenzie advises that these were provided to DRs for two reasons, namely to eliminate the printing and shipping costs for the conference materials and to enable DRs to explore the re-designed Mackenzie website. Upon being advised in February 2016 of CRR staff's view that the provision of iPad minis to DRs did not comply with section 5.6 of NI 81-105, Mackenzie immediately stopped this practice.

C. Mackenzie Paid for the Benefits at Issue

80. Mackenzie advises Staff of the following:

(a) Mackenzie, not the Mackenzie Products, paid for the monetary and non-monetary benefits at issue;

(b) the performance of the Mackenzie Products has not been impacted by these matters. The management expense ratios of the Mackenzie Products were not affected by the monetary and non-monetary benefits that were paid to DRs; and

(c) Mackenzie, not the Mackenzie Products, will pay all costs, fines and expenses relating to the resolution of the matters described in this Settlement Agreement, including the administrative fine, costs of the Commission's investigation and the fees charged by the Consultant in relation to the matters described in Schedule "B" to this Settlement Agreement.

D. Cooperation with Staff's Investigation

81. Mackenzie has cooperated with Staff in connection with Staff's investigation of the matters referred to in this Settlement Agreement.

82. Mackenzie has no disciplinary history with the Commission.

PART V – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

83. By engaging in the conduct described above, Mackenzie admits and acknowledges that it has breached Ontario securities law, and that it has acted contrary to the public interest. In particular:

(a) Mackenzie did not comply with section 5.6 of NI 81-105 by providing excessive non-monetary benefits to DRs through business promotion activities and through the provisions of Items resulting in a breach by Mackenzie of section 2.1 of NI 81-105, during the period May 2014 to October 2017;

(b) Mackenzie provided non-monetary benefits to participating dealers (in the form of contributions to non-educational dealer events) which did not meet the requirements of Part 5 of NI 81-105 resulting in a breach by Mackenzie of section 2.1 of NI 81-105, during the period September 2015 to December 2017;

(c) Mackenzie did not comply with subsection 5.2(e) and section 5.6 of NI 81-105 by providing excessive non-monetary benefits to DRs through the gifting of iPad minis and the provision of certain dinners at the six conferences it held during the period November 2014 to May 2015, resulting in a breach by Mackenzie of section 2.1 of NI 81-105;

(d) Mackenzie failed to establish and maintain adequate systems of controls and supervision around its sales practices during the period May 2014 to October 2017 to ensure compliance with section 2.1 and Part 5 of NI 81-105, in breach of section 32(2) of the Act and section 11.1 of NI 31-103;

(e) Mackenzie failed to maintain books, records and other documents as were reasonably required to demonstrate its compliance with NI 81-105 in breach of paragraph 3 of subsection 19(1) of the Act during the period from May 2014 to October 2017; and

(f) the conduct referred to above is also contrary to the public interest.

PART VI – TERMS OF SETTLEMENT

84. Mackenzie agrees to the terms of settlement listed below and consents to the Order in substantially the form attached hereto as Schedule "A", which provides that:

(a) the Settlement Agreement is approved;

(b) Mackenzie is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

(c) Mackenzie shall:

(i) submit to a review of its practices and procedures carried out by the Consultant, at Mackenzie's expense as set out in Schedule "B" to the Settlement Agreement, until a Deputy Director or a Manager in the Compliance and Registrant Regulation Branch of the Commission is satisfied that the conclusions expressed in the Attestation Letter by the Consultant described in Schedule "B" are valid, pursuant to paragraph 4 of subsection 127(1) of the Act;

(ii) pay an administrative penalty in the amount of $900,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, which amount shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act, pursuant to paragraph 9 of subsection 127(1) of the Act; and

(iii) pay costs of the Commission's investigation in the amount of $150,000, by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to section 127.1 of the Act.

85. Mackenzie consents to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the terms and conditions as may be imposed pursuant to the preceding sub-paragraph (c)(i). These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

86. Mackenzie agrees to attend in person at the hearing before the Commission to consider the proposed settlement.

PART VII – FURTHER PROCEEDINGS

87. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law against Mackenzie in relation to the facts set out in Part III of this Settlement Agreement, subject to paragraph 88 below.

88. If the Commission approves this Settlement Agreement and Mackenzie fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against Mackenzie. These proceedings may be based on, but need not be limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

89. The parties will seek approval of this Settlement Agreement at a public hearing (the "**Settlement Hearing**") before the Commission scheduled for April 6, 2018 or on another date agreed to by Staff and Mackenzie, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.

90. Staff and Mackenzie agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the Settlement Hearing on Mackenzie's conduct, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

91. If the Commission approves this Settlement Agreement:

(a) Mackenzie irrevocably waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and

(b) neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

92. Whether or not the Commission approves this Settlement Agreement, Mackenzie 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 IX – DISCLOSURE OF SETTLEMENT AGREEMENT

93. If the Commission does not approve this Settlement Agreement or does not make an order substantially in the form of the Order attached as Schedule "A" to this Settlement Agreement:

(a) this Settlement Agreement and all discussions and negotiations between Staff and Mackenzie before the Settlement Hearing takes place will be without prejudice to Staff and Mackenzie; and

(b) Staff and Mackenzie will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Statement of Allegations. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

94. The parties will keep the terms of this Settlement Agreement confidential until the Commission approves the Settlement Agreement, except as is necessary to make submissions at the Settlement Hearing. If, for whatever reason, the Commission does not approve the Settlement Agreement, the terms of the Settlement Agreement shall remain confidential indefinitely, unless Staff and Mackenzie otherwise agree in writing or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

95. This Settlement Agreement may be signed in one or more counterparts which, together, constitute a binding agreement.

96. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated at Toronto this 4th day of April, 2018.

MACKENZIE FINANCIAL CORPORATION

By: *"Donald J. MacDonald"*
Donald J. MacDonald
Senior Vice President.
General Counsel & Secretary

COMMISSION STAFF

By: *"Jeff Kehoe"*
Jeff Kehoe
Director, Enforcement Branch

SCHEDULE "A" – DRAFT ORDER

FILE NO.: ●

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION

ORDER
(Subsections 127(1) and 127.1)

WHEREAS on April 6, 2018 the Ontario Securities Commission (the "**Commission**") held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario to consider the Application made jointly by Mackenzie Financial Corporation ("**Mackenzie**") and Staff of the Commission for approval of a settlement agreement dated April 4, 2018 (the "**Settlement Agreement**");

ON READING the Joint Application Record for a Settlement Hearing, including the Statement of Allegations dated April 4, 2018 the Settlement Agreement and the Consent of the parties to an Order in substantially this form, and on hearing the submissions of counsel for both parties;

IT IS ORDERED THAT:

1. The Settlement Agreement is approved pursuant to subsection 127(1) of the *Securities Act*, RSO 1990, c S.5, as amended (the "**Act**").

2. Mackenzie is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

3. Mackenzie shall:

   (i) submit to a review of its practices and procedures by an independent consultant (the "**Consultant**"), at Mackenzie's expense, as set out in Schedule "B" to the Settlement Agreement until a Deputy Director or a Manager in the Compliance and Registrant Regulation Branch of the Commission is satisfied that the conclusions expressed in the Attestation Letter by the Consultant described in Schedule "B" are valid, pursuant to paragraph 4 of subsection 127(1) of the Act;

   (ii) pay an administrative penalty in the amount of $900,000 to the Commission, which amount shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act, pursuant to paragraph 9 of subsection 127(1) of the Act; and

   (iii) pay costs of the Commission's investigation in the amount of $150,000, to the Commission, pursuant to section 127.1 of the Act.

SCHEDULE "B" – REVIEW OF PRACTICES AND PROCEDURES

1. Mackenzie Financial Corporation ("**Mackenzie**") shall continue to retain the independent consultant (the "**Consultant**"), it first retained in September 2017, to review Mackenzie's sales practices and the controls around Mackenzie's sales practices which includes a review of Mackenzie's operations, internal controls, practices, policies and procedures relating to sales practices (the "**Sales Practice System**") to ensure that:

a. the Sales Practice System fully complies with applicable law, including National Instrument 81-105 – *Mutual Fund Sales Practices* ("**NI 81-105**"), section 32(2) of the *Securities Act*, RSO 1990 c S.5, as amended, and section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

b. the Sales Practice System is tailored to the specific manner of business conducted by Mackenzie and is consistent with prudent business practices and best industry standards;

c. the Sales Practice System is designed to prevent and identify any non-compliance at an early stage, to allow for correction of the conduct in a timely manner, and to escalate breaches for appropriate disciplinary action; and

d. all applicable Mackenzie staff are trained on business promotion matters to ensure compliance with applicable laws related to the Sales Practice System, including NI 81-105;

2. Mackenzie shall require the Consultant to deliver to a Deputy Director or Manager in the Compliance and Registrant Regulation Branch of the Commission (the "**OSC Manager"**) a written report describing the Consultant's recommendations, in addition to the recommendations already made in the Consultant's report dated October 31, 2017, to ensure that Mackenzie's Sales Practice System conforms with the obligations set out in paragraph 1 above (the "**Report**"), within 90 days of the Order approving the Settlement Agreement between Staff of the Commission ("**Staff**") and Mackenzie dated April 4, 2018;

3. Within 12 months of the delivery of the Report to the OSC Manager, Mackenzie shall have fully implemented the recommendations of the Consultant described in the Report, and the Ultimate Designated Person and the Chief Compliance Officer of Mackenzie shall provide written confirmation to the OSC Manager that there has been full implementation of the Consultant's recommendations in the Report (the "**Confirmation Letter**");

4. Commencing 6 months after the delivery of the Confirmation Letter to the OSC Manager, Mackenzie shall cause the Consultant to conduct testing to determine whether the recommendations in the Report have been fully implemented, and whether any changes resulting from those recommendations are being appropriately followed, administered and enforced by Mackenzie ("**Final Testing**");

5. Within 12 months of the provision of the Confirmation Letter to the OSC Manager, the Consultant shall provide a letter (the "**Attestation Letter**") to the OSC Manager, expressing his or her conclusions with respect to the Final Testing and:

a. include a report with the Attestation Letter which provides a description of the testing performed to support the conclusions contained in the Attestation Letter; and

b. submit such additional reports as may be requested by the OSC Manager for the purpose of satisfying the OSC Manager that the conclusions expressed in the Attestation Letter described above are valid;

6. Mackenzie shall provide the Consultant with reasonable access to all of Mackenzie's books and records necessary to complete the Consultant's mandate and will allow the Consultant to meet privately with Mackenzie's officers, directors and employees. Mackenzie shall require its officers, directors and employees to cooperate fully with the Consultant with respect to the Consultant's work and with respect to the implementation of the recommendations in the Report;

7. Mackenzie shall not terminate the Consultant's retainer without prior written approval by the OSC Manager; and

8. Mackenzie shall immediately submit to Staff a direction giving consent for unrestricted access and permission for Staff and the Consultant to communicate with one another regarding the Consultant's work and Mackenzie's progress with respect to the implementation of the recommendations in the Report and/or any other matter relevant to this review.

This page intentionally left blank

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Sital Singh Dhillon – ss. 8(2), 8(3)

IN THE MATTER OF
SITAL SINGH DHILLON

REASONS AND DECISION
(Subsections 8(2) and 8(3) of the *Securities Act*, RSO 1990, c S.5)

Citation: *Dhillon (Re)*, 2018 ONSEC 14
Date: 2018-04-03

Hearing:	February 12, 2018	
Decision:	April 3, 2018	
Panel:	Mark J. Sandler	Chair of the Panel
	Deborah Leckman	Commissioner
	AnneMarie Ryan	Commissioner
Appearances:	Sital Singh Dhillon	For himself
	Raphael T. Eghan	For Staff of the Commission

TABLE OF CONTENTS

REASONS AND DECISION

I. INTRODUCTION

[1] On June 14, 2016, Sital Singh Dhillon applied for registration as a mutual fund dealing representative with Shah Financial Planning Inc. (**Shah**). After interviewing Mr. Dhillon on June 24, 2016, Staff recommended to the Director of Compliance and Registrant Regulation Branch of the Commission (the **Director**) that his application be refused. Staff informed Mr. Dhillon of its recommendation in a letter dated August 9, 2016.

[2] Mr. Dhillon requested an Opportunity to be Heard (**OTBH**) regarding his application, which ultimately took place on June 23, 2017. On July 31, 2017, the Director issued her decision, with reasons, for refusing Mr. Dhillon's application for registration as a mutual fund dealing representative (the **Director's Decision**). The Director found that Mr. Dhillon lacked both the proficiency and the integrity required for registration, and that his registration would be otherwise objectionable.

[3] Mr. Dhillon applied for a hearing and review before the Ontario Securities Commission of the Director's Decision, which we conducted on February 7, 2018. At the conclusion of the parties' submissions, we reserved judgment. These are our Reasons and Decision. As explained below, we conclude that Mr. Dhillon is unsuitable for registration based on his lack of proficiency and integrity. The Director's Decision is therefore confirmed.

II. PRELIMINARY ISSUE – WITHDRAWAL OF FIRM SPONSORSHIP

[4] Mr. Dhillon's application for registration on June 14, 2016 was sponsored by Shah. Following the Director's Decision, Shah withdrew its sponsorship of Mr. Dhillon's application.

[5] An individual who seeks to engage in the business of trading in securities must be registered as a dealing representative of a registered dealer (i.e. his/her firm) and must act on behalf of that dealer.[1] As a result, the issue arose as to what jurisdiction the Commission had to review the Director's Decision.

[6] In our view, it would be fundamentally unfair if the Director could refuse an application for registration, potentially resulting in a withdrawal of sponsorship, without access on the applicant's part to hearing and review proceedings to challenge the Director's Decision. Nor is such unfairness compelled by subsections 8(2) and 8(3) of the Act, which provide for the right to a hearing and review. These subsections entitle any person or company "directly affected by a decision of the Director" to a hearing and review, and provide that the Commission may either confirm the decision under review or "make such other decision as the Commission considers proper."

[7] Despite the withdrawal of sponsorship, it is obvious that Mr. Dhillon remains a person "directly affected" by the Director's decision. Moreover, the Commission's authority to make such decision as it considers proper (other than confirming the Director's Decision) surely includes the authority to set aside the Director's Decision without approving the registration.

[8] We conclude that while the Commission does not have jurisdiction under subsection 8(3) of the Act to approve the registration of an unsponsored applicant, it does have jurisdiction to set aside a Director's Decision to refuse registration. The parties had no objection to proceeding on that basis.

III. LAW

A. Criteria for registration

[9] The criteria for registration under the Act are set out in subsections 27(1) and 27(2). The passages relevant to this application are highlighted in boldface:

> **27 (1) On receipt of an application by a person** or company and all information, material and fees required by the Director and the regulations, **the Director shall register the person** or company, reinstate the registration of the person or company or amend the registration of the person or company, **unless it appears to the Director,**
>
> (a) **that, in the case of a person** or company **applying for registration**, reinstatement of registration or an amendment to a registration, **the person** or company **is not suitable for registration under this Act; or**

[1] *Securities Act,* RSO 1990, c. S.5 (the **Act**), s 25(1)(b); *Reaney (Re)*, (2015) 38 OSCB 6412; 2015 ONSEC 23 at para 25.

> (b) t**hat the proposed registration**, reinstatement of registration or amendment to registration **is otherwise objectionable.**
>
> **(2) In considering for the purposes of subsection (1) whether a person** or company **is not suitable for registration, the Director shall consider,**
>
> (a) **whether the person** or company **has satisfied**,
>
> (i) **the requirements prescribed in the regulations relating to proficiency**, solvency **and integrity, and**
>
> (ii) such other requirements for registration, reinstatement of registration or an amendment to a registration, as the case may be, as may be prescribed by the regulations; and
>
> (b) **such other factors as the Director considers relevant.**
>
> [Emphasis added.]

[10] The Director determined that Mr. Dhillon was not suitable for registration, based on his failure to meet the requirements prescribed in the regulations relating to proficiency and integrity. Those regulations are elaborated upon later in these reasons.

[11] The Director also determined that Mr. Dhillon's registration would be otherwise objectionable. In light of our disposition on the issue of unsuitability, it is unnecessary to address whether Mr. Dhillon's registration would be otherwise objectionable.

B. Hearing and Review of a Director's Decision

[12] As indicated earlier, hearing and review proceedings by the Commission are governed by subsections 8(2) and 8(3) of the Act:

> **8 (2) Any person** or company **directly affected by a decision of the Director may**, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, **request and be entitled to a hearing and review** thereof **by the Commission.**
>
> **(3)** Upon a hearing and review, **the Commission may** by order **confirm the decision** under review **or make such other decision as the Commission considers proper.**
>
> [Emphasis added.]

[13] A hearing and review of a decision by the Director is a hearing *de novo*. Simply put, it involves a fresh consideration of the issue. No deference is owed to the Director's Decision.[2] This means, among other things, that Staff bears the burden of proof or persuasion in this hearing and review, as Staff did before the Director. Staff, not the applicant, must demonstrate that the applicant lacks the proficiency or integrity to be registered or that his registration would otherwise be objectionable.

C. The Applicable Burden of Proof

[14] Subsection 27(1) of the Act provides that the Director is entitled to refuse registration where it appears to the Director that the applicant is not suitable for registration or the registration would be otherwise objectionable. Staff submits that the highlighted wording supports the view that the applicable burden of proof before the Director (and before the Commission by extension) is not "the balance of probabilities" standard, but a lower standard based on whether "it appears" to the Director that registration is not suitable or would otherwise be objectionable.

[15] There is some support in the jurisprudence for Staff's position. For example, in *Argosy Securities Inc. and Keybase Financial Group Inc.* (***Argosy***)[3] the Commission recently considered this issue in the context of section 28, which contains similar language to section 27, and said this:

---

2 *Bouji (Re)*, (2017) 40 OSCB 8845, 2017 ONSEC 38 at para 26; *Waverley Corporate Financial Services Ltd. (Re)*, (2017) 40 OSCB 2145, 2017 ONSEC 5 at para 25; *Sterling Grace & Co (Re)*, (2014) 37 OSCB 8298, 2014 ONSEC 24 (***Sterling Grace***) at para 24.

3 (2016), 39 OSCB 4040, 2016 ONSEC 11 at para 47.

> … the Director (and by extension the Commission) may impose terms and conditions upon a registration if "it appears" that the registrant has failed to comply with Ontario securities law. This is not an enforcement proceeding, and we are not necessarily being asked to conclude, on a balance of probabilities, that the Applicants have contravened Ontario securities law. It is sufficient for us to conclude, as we do, that it appears there has been a failure to comply with Ontario securities law.[4]

[16] In *Argosy*, the Commission found it unnecessary to articulate what that lower standard of proof entailed or to engage in a detailed analysis of the issue.

[17] In our view, there may be a compelling argument that favours an alternative interpretation of the phrase "appears to the Director." It is arguable that the phrase is intended only to identify the person (in this instance, the Director) who is empowered to decide whether the applicant qualifies for registration. On this interpretation, the phrase is unrelated to the standard of proof.

[18] On this same interpretation, the conventional burden of proof applicable in administrative or regulatory proceedings should prevail.

[19] In *F.H. v McDougall*,[5] the Supreme Court of Canada reaffirmed that "in civil cases there is only one standard of proof and that is proof on a balance of probabilities." The same approach has subsequently been taken in most administrative or regulatory proceedings.

[20] In *McDougall*, the Court recognized that it is open to a legislature to change the standard of proof through statutory enactment, and in *Jacobs v. Ottawa (Police Service)*,[6] the Supreme Court of Canada upheld a higher standard of proof in police disciplinary proceedings based on the wording contained in the Ontario *Police Services Act*. However, clear and unambiguous language is required to displace the conventional standard of proof. It is arguable that section 27 of the Act falls short of the kind of clear and unambiguous language sufficient to displace the conventional standard of proof.

[21] There are also policy reasons which arguably support the preservation of the balance of probabilities standard under section 27 of the Act. Although registration has been described as a privilege,[7] the inability to be registered, or the loss of registration may have significant adverse consequences to an applicant, including loss of employment or livelihood. A decision which concludes that an applicant lacks integrity or is otherwise unsuitable for registration potentially impacts in a profound way on that applicant's reputation. It hardly seems an onerous requirement to insist that Staff demonstrates, on a balance of probabilities, the preconditions to denial of registration.

[22] The phrase "appears to" has been interpreted by courts in the context of other legislation. In *Royal Trustco Ltd. (Re)*,[8] a case involving the *Canada Business Corporations Act*,[9] the court held that "appears to" indicates a lower standard of proof. However, it stressed that this interpretation relied on the context in which the provision appeared.[10] In contrast, in Beamish v Miltenberger,[11] the wording "appears to" in the Northwest Territory's *Elections Act*,[12] was held to refer to the civil standard.

[23] We felt that it is important to identify this issue for future consideration. However, we choose not to resolve it in this case for two reasons. First, we have not had the benefit of full submissions on this point, including a detailed analysis of the same phrase elsewhere in the Act – for example, in subsection 70(1) – and in other legislation. Second, and more importantly, as reflected in these reasons, we have used the higher standard, which is more favourable to the applicant. Using this higher standard, we still find that he is unsuitable for registration. Accordingly, the application of a lower standard would not change the result.

---

4 *Argosy* at para 179.

5 2008 SCC 53 (***McDougall***) at para 49.

6 2016 ONCA 345.

7 *Trend Capital Services Inc. (Re)* (1992), 15 OSCB 1711 at para 111.

8 *Royal Trustco Ltd. (Re)*, [1981] OJ No. 252 (Sup Ct) (***Royal Trustco***) at para 18.

9 *Canada Business Corporations Act*, RSC, 1985 c C-44.

10 *Royal Trustco* at para 4.

11 *Beamish v Miltenberger*, [1997] NWTR 160 (Sup Ct).

12 *Elections Act*, RSNWT, c E-2.

IV. THE CONDUCT OF THE HEARING AND REVIEW

[24] In accordance with the Ontario Securities Commission *Practice Guideline*,[13] we were provided with the record of the proceeding below, containing, in this instance:

a. the application by which the original matter was commenced;

b. the Notice of Hearing;

c. interim orders;

d. documentary evidence filed in the original proceeding;

e. a transcript of oral submissions in the original proceeding; and

f. the decision that is the subject of the request for a hearing and review, including the reasons for the decision.

[25] Because this is a hearing *de novo*, the parties are entitled to adduce new evidence relevant to the issues. Staff, in this instance, elected only to add one fact to the existing record, namely that Shah has withdrawn its sponsorship of the applicant. Mr. Dhillon agreed to that fact without the necessity of formal proof.

[26] In addition to relying on the existing record, Mr. Dhillon presented to the Panel three decisions of hearing panels of the Mutual Fund Dealers Association of Canada (the **MFDA**):

a. Reasons for Decision, dated January 30, 2012, resulting from a settlement hearing between the MFDA and W.H. Stuart Mutuals Ltd. (**WHS**);[14]

b. Decision and Reasons (Misconduct), dated April 25, 2016, resulting from a disciplinary proceeding against WHS, Marilyn Dianne Stuart and Walter Howard Stuart;[15] and

c. Decision and Reasons (Penalty), dated May 16, 2016, resulting from the same disciplinary proceeding against WHS, Marilyn Dianne Stuart and Walter Howard Stuart.[16]

[27] Mr. Dhillon also advised the Commission that proceedings had taken place against Dino DeRosa, relating to his role as Chief Compliance Officer (**CCO**) at WHS. In fairness to Mr. Dhillon, we asked Staff to facilitate a search to determine whether the MFDA had indeed proceeded against Mr. DeRosa and if so, what the status of those proceedings was. We learned that the MFDA had proceeded against Mr. DeRosa on allegations described in a Notice of Hearing which we were provided.[17] We understand that those proceedings remain outstanding. We have considered all of the additional materials tendered in deciding this matter.

[28] Mr. Dhillon chose not to testify at the hearing and review. He and Staff made submissions in writing and orally in support of their respective positions.

V. THE POSITIONS OF THE PARTIES

[29] Staff contends that the evidence overwhelmingly supports the Director's Decision that Mr. Dhillon is unsuitable for registration based on a lack of requisite proficiency and integrity, and that his registration would be otherwise objectionable. Staff's position largely tracks its submissions before the Director.

[30] Mr. Dhillon argues that he meets the proficiency and integrity requirements for registration. In relation to the integrity requirement, he challenges the credibility and reliability of the information received from various firms where he was employed, asserting, among other things, that several firms have made false allegations against him out of self-interest, including false allegations against him of dishonesty and serious non-compliance with regulatory requirements. He was particularly forceful in contending that WHS and its CCO were themselves engaged in serious discreditable conduct which fatally undermines the credibility and reliability of their allegations against him.

[31] We discuss the available evidence, as well as the more detailed positions of the parties, in the analysis that follows.

---

13 *Ontario Securities Commission Practice Guideline* (2017), 40 OSCB 9009, s 6(2).

14 MFDA File No. 201035.

15 MFDA File No. 201426.

16 MFDA File No. 201532.

17 MFDA File No. 201751.

VI. ANALYSIS

A. Introduction

[32] When reviewing a Director's Decision relating to registration, the Commission is required to act in the public interest. In doing so, the Commission is required to keep in mind certain fundamental principles, such as the "requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants".[18] These principles support the stated objectives of the Act: namely, (a) to provide protection to investors from unfair, improper or fraudulent practices; (b) to foster fair and efficient capital markets and confidence in capital markets; and (c) to contribute to the stability of the financial system and the reduction of systemic risk.[19]

[33] Registrants have a very important function in the capital markets and investors place their trust in registrants who advise them. This is precisely why regulating the conduct of registrants, and the ability of any person or entity to be registered, is a matter of public interest.[20]

[34] The Act directs us, in determining whether Mr. Dhillon is suitable for registration, to consider whether he has satisfied the requirements prescribed in the regulations relating to proficiency, solvency and integrity.[21] Solvency is not an issue in this proceeding.

[35] In determining whether an applicant for registration is suitable or not suitable for registration, the Director and the Commission are entitled to consider the applicant's past conduct.[22] To state an obvious example, proof of past dishonesty or serious non-compliance with regulatory requirements may figure prominently in whether an applicant's behaviour in the future would fail to meet the requisite standards of conduct such as fitness, honesty and integrity.

1. Does Mr. Dhillon meet the proficiency requirements for registration?

[36] Staff submits that Mr. Dhillon has not satisfied the requirements prescribed in the regulations relating to proficiency. Mr. Dhillon disputes this and submits that he is suitable in this respect.

[37] National Instrument 31-103 – *Registration Requirements* (**NI 31-103**) prescribes specific criteria – such as course requirements – that individuals must meet when applying to be registered as a mutual fund dealing representative in order to fulfill the proficiency requirement of section 27 of the Act.

[38] Paragraph 3.5(a) of NI 31-103 requires a mutual fund dealing representative to pass the Canadian Investment Funds Course Examination, the Canadian Securities Course Examination or the Investment Funds in Canada Course Examination. Subsection 3.3(1) of NI-31-103 provides that individuals are deemed not to have passed such an examination unless they have done so not more than three years before the date of their application for registration, unless an exemption contained in subsection 3.3(2) applies.

[39] Paragraph 3.3(2)(a) of NI 31-103 gives an exemption to individuals who have been registered in the same category of registration elsewhere in Canada during the three-year period prior to the application for registration. This exemption has no application here. Paragraph 3.3(2)(b) exempts individuals who have gained twelve months of relevant securities industry experience during the three-year period prior to their application for registration.

[40] Mr. Dhillon passed the Canadian Investment Funds Course Examination in November 1990. However, Staff submits that because Mr. Dhillon's application is dated June 14, 2016 and because he has not been registered since he resigned from Queensbury Strategies Inc. (**Queensbury**) on June 26, 2012 – more than three years prior to the application date – Mr. Dhillon does not meet the requirements relating to proficiency.

[41] Mr. Dhillon submits that he satisfies the proficiency requirements pursuant to the second exemption stated above. In support of this position, he provided the Director and the Commission multiple certificates from seminars he attended during the period of his non-registration.

[42] In relation to this issue, the Director concluded as follows:

> I was provided with a number of certificates related to training courses attended by Dhillon in the three-year period prior to the application date. After review of these certificates, my decision is that

[18] Act, s. 2.1(2)(iii).

[19] Act, s. 1.1.

[20] *Michalik (Re)*, (2007) 28 OSCB 7657, 2007 ONSEC 10 at para 48.

[21] Act, s 27(2)(a)(i).

[22] *Sterling Grace* at para 159.

> these training courses in their totality do not constitute 12 months of relevant securities industry experience during the three years prior to the application date.
>
> (Director's Decision at para 12)

[43] We share the view that Mr. Dhillon's attendance at seminars does not amount to 12 months of relevant securities industry experience. Securities industry experience is fundamentally different than attendance at seminars. Even if this were not so, his attendances cumulatively have not been shown to be the functional equivalent of 12 months of required securities industry experience.

[44] Although our conclusion that Staff has demonstrated that Mr. Dhillon does not meet the proficiency requirement for registration would suffice to confirm the Director's Decision, it is important to address the issue of integrity. If Mr. Dhillon's only deficiency related to timeliness of past examinations, then he might become eligible for registration by satisfactory completion of one of the specified courses.

2. Does Mr. Dhillon meet the integrity requirements for registration?

[45] In considering whether Mr. Dhillon meets the requirements for suitability, we are required to consider whether the applicant has satisfied the requirements prescribed in the regulations relating to integrity. OSC Rule 31-505 – *Conditions of Registration*, requires a registered representative to deal with his/her clients "fairly, honestly and in good faith."[23]

[46] *Wall (Re)*,[24] a Director's decision that has frequently been cited by the Commission, explains the appropriate approach by Staff in assessing integrity:

> OSC Staff look at the honesty and the character of the applicant when analyzing integrity. In particular, Staff examines the applicant's dealings with clients, compliance with Ontario securities law and other applicable laws, and the use of prudent business practices.

[47] We take the same approach in assessing Mr. Dhillon's integrity.

(a) Issues at PFSL Investments Canada Ltd. (1991-1998)

[48] Mr. Dhillon was registered in January 1991 with PFSL Investments Canada Ltd. (**PFSL**) (formerly Primerica Financial Services) as a mutual fund salesperson, until November 1998 when he resigned.

[49] In July 1998, one of Mr. Dhillon's clients, RS, complained to PFSL that in 1997 he had given Mr. Dhillon $9,000 for an investment in a European company, and that Mr. Dhillon promised him a "15%-20% return, that could be renewed on a 3 month basis." RS had asked Mr. Dhillon to redeem his investment; Mr. Dhillon returned $2,000 in December 1997, but despite repeated requests from RS, Mr. Dhillon did not return the balance of $7,000.

[50] PFSL had no record of such funds being received or invested. While Mr. Dhillon claimed RS was a long-time friend who loaned Mr. Dhillon the funds because Mr. Dhillon was in financial difficulty, RS adamantly denied they were friends.

[51] PFSL suspended Mr. Dhillon, pending the outcome of its investigation. At the time of Mr. Dhillon's resignation, a recommendation to terminate PFSL's sponsorship was pending.

[52] During a two-day interview with Staff in February 2013 (the **2013 Interview**), Mr. Dhillon stated that the complaint was "absolutely wrong" and speculated that his divorced wife and sons put pressure on RS to make the complaint. Mr. Dhillon claimed that he had paid back the full amount; however there was no documentary evidence that he had paid back more than $2,000.

[53] In August 2001, approximately three years after Mr. Dhillon's departure from PFSL, a client, JB, complained to PFSL that in 1997, Dhillon took $15,000 from him for an investment which JB understood was to be made through PFSL. JB provided a copy of the cancelled cheque made out to Mr. Dhillon personally. Both JB and Mr. Dhillon indicated that they knew each other through family. PFSL had no record of the funds being received or invested through the firm, nor did JB provide any evidence the $15,000 was intended for investment at PFSL.

---

[23] Act, s.1(1) "regulations" means the regulations under this Act and, unless the context otherwise indicates, includes the rules.

[24] (2007), 30 OSCB 7521.

[54] During the 2013 Interview, Mr. Dhillon claimed that he never received the money from JB, despite the evidence of the cancelled cheque, and suggested PFSL may have forged the letter because PFSL was "jealous" about losing commission revenue once Mr. Dhillon left the firm.

(b) Issues at W.H. Stuart Mutuals Ltd. (1999-2010)

[55] Mr. Dhillon was registered with WHS in March 1999 as a mutual fund and limited market dealing salesperson until August 2010. Mr. Dhillon's registration was subject to terms and conditions requiring WHS to submit quarterly supervision reports to the Commission for two years. In September 2002, following a compliance audit, Mr. Dhillon was sent a warning letter outlining six compliance deficiencies, including the use of pre-signed client forms. The letter stated that this was Mr. Dhillon's "final warning regarding the practice of asking clients to sign forms that are not filled out completely". Further occurrences would result in WHS's termination of its sponsorship of Mr. Dhillon's mutual fund licence.

[56] During the 2013 Interview, Mr. Dhillon disputed that he had used pre-signed client forms, and further denied receiving any previous warnings.

[57] A subsequent compliance audit in October 2004 found five compliance deficiencies, including investment unsuitability concerns. In January 2005, Mr. Dhillon was placed on internal suspension and strict supervision because he had not taken the corrective actions WHS required to resolve the compliance deficiencies.

[58] Mr. Dhillon's response during the 2013 Interview was that the internal suspension was a "bogus thing" and "doesn't mean anything" and stated that the CCO was robbing representatives, including Mr. Dhillon, by fining them or withholding commissions when they made errors.

[59] In October 2004 and June 2005, Mr. Dhillon's client, RB, complained to WHS and the MFDA respectively about Mr. Dhillon's recommendation that RB borrow in order to invest – that is, that RB use Mr. Dhillon's leveraged investment strategy. On April 30, 2004, Dhillon offered to lend RB "a few thousand dollars" in order to maintain the monthly interest payments on the investment account (the **WHS Account)**. On June 28, 2005, the MFDA cautioned Mr. Dhillon, in writing, that personal lending to a client violated MFDA rules and regulations.

[60] When asked about the RB complaint in the 2013 Interview, Mr. Dhillon first claimed that RB forced him to open the WHS Account. Mr. Dhillon subsequently stated that RB's wife and brother-in-law accused Mr. Dhillon of forcing RB to open the WHS Account. Mr. Dhillon admitted that he offered RB a loan to maintain the monthly payments required by the leveraged strategy, but that RB did not take him up on that offering. Mr. Dhillon further admitted he knew that offering to loan money to clients contravened MFDA rules.

[61] A 2009 compliance review by WHS found continued use of pre-signed forms and the processing of off-book transactions which did not follow the WHS approval process. During the 2013 Interview, Mr. Dhillon disputed that he used pre-signed forms and denied any off-book trading. He complained that the CCO was holding up his loan applications so he sent them directly to B2B Bank for approval. He suggested that WHS should "praise" him instead of asking questions because he was bringing it so much business.

[62] In August 2010, Mr. Dhillon resigned from WHS.

[63] In a September 1, 2010 letter to the OSC, WHS indicated that Mr. Dhillon had continued using pre-signed forms and that many accounts were not compliant with MFDA leverage guidelines. The CCO also referred to the difficulties compliance staff encountered when dealing with Mr. Dhillon, including his demanding immediate service, questioning compliance staff requests for information and calling them incompetent. The situation escalated when his trades were not approved. Mr. Dhillon blamed WHS staff for not understanding his strategies and the way he conducted his business.

[64] By letter dated September 15, 2010, Mr. Dhillon responded to WHS's complaint to the OSC. He stated that "in all these years of my working as a financial Consultant, I have not been subjected to any complaints against me." This was demonstrably untrue as there were repeated complaints involving multiple clients and firms over a period of several years. Mr. Dhillon's position before us was that he was referring only to complaints that he felt had merit.

[65] In Mr. Dhillon's response, he also stated that WHS compliance staff unnecessarily delayed approving his transactions and did not understand the "financial complications" of his leveraged strategies. He referred to "[t]his repeated delay and their constant harassment" and that "they [WHS] plotted against me and filed a complaint, which holds no merit". He reiterated that the "allegations are baseless".

[66] The Notice of Termination filed by WHS with the Commission outlined further issues with Mr. Dhillon's unsuitable leveraged strategies and off-book trading. Mr. Dhillon's off-book trading became the subject of an MFDA investigation in 2011, which subsequently was escalated to its enforcement branch in 2013, and then the subject of an MFDA hearing commencing in 2014. Mr. Dhillon was represented by counsel at the hearing.

[67] On August 19, 2015, the MFDA's hearing panel found that Mr. Dhillon had breached MFDA Rules 1.1.2, 2.5.1 and 2.1.1, when he made leveraged investments in two client accounts without the knowledge or approval of WHS. In its Reasons and Decision, the Panel found that Mr. Dhillon's "testimony was at times contradictory, tangential and frequently self-serving" and that his evidence was not credible. On December 31, 2015, the Panel ordered Mr. Dhillon to pay a fine of $15,000 and costs of $5,000, and prohibited him from conducting securities-related business for six months. The Panel found that Mr. Dhillon's actions were "blatant" and that this was "a case of deliberate misconduct by an experienced and seasoned Approved Person".

[68] Following Mr. Dhillon's departure from WHS, the CCO reached out to a number of Mr. Dhillon's clients, some of whom described severe hardship as a result of market losses exacerbated by the leveraged strategies. These hardships included having to take out a mortgage, using a credit card to make monthly interest payments, or selling their home to meet margin calls. A number of them stated that Mr. Dhillon had not explained what a margin call was. A number of them claimed that Mr. Dhillon coerced them into continuing to increase their loans even though they were experiencing financial hardship. A number of clients stated that Mr. Dhillon asked them to sign blank forms.

[69] During his 2013 Interview, Mr. Dhillon stated that he spent four to five hours fully educating each client about all the components of an investment, including deferred sales charges.

(c) Issues at Queensbury Strategies Inc. (2010-2012)

[70] On November 4, 2010, Mr. Dhillon became registered as a mutual fund dealing representative with Queensbury. According to the affidavit of Betty Jo Royce, (President of Queensbury and CCO from September 2011), sworn May 28, 2013, Mr. Dhillon had 60 clients, many of whom were excessively leveraged.

[71] Within four months of his arrival, on March 16, 2011, the CCO sent Mr. Dhillon a letter warning him of his inappropriate behavior towards Queensbury staff (the **March 2011 Letter**). This letter described behavior similar to that described by the WHS CCO in his September 1, 2010 letter.

[72] The March 2011 Letter also questioned the documentation prepared for Mr. Dhillon's leveraged clients, all of whom were described as having "good or excellent investment knowledge", a high risk tolerance, a growth objective and an investment horizon of 20 years or more.

[73] During the 2013 Interview, Mr. Dhillon confirmed that all of his clients had these characteristics, despite the fact that he admitted that many of his clients were retired, with little income.

[74] In a series of emails dated between July 4, 2011 and July 7, 2011, the Queensbury CCO disputed the legitimacy of documentation pertaining to the income and assets of Mr. Dhillon's client JS, a self-employed taxi driver. While JS's loan application stated that he had total income of $88,400, his tax return, prepared by Mr. Dhillon, showed his net income at $24,606.94. The CCO stated that Queensbury would not support a loan application for clients who under-reported income to the Canada Revenue Agency.

[75] Mr. Dhillon responded by email on the same day saying: "If he is under reporting then it is his problem. Our duty is to give our clients best advice and to work for their prosperity." The loan was not approved.

[76] During the 2013 Interview, Mr. Dhillon testified that JS was "forcing" him to under-report income.

[77] On October 13, 2011, Ms. Royce conducted a normal course audit of Mr. Dhillon's mutual fund practice. Ms. Royce asked Mr. Dhillon if there were any client complaints against him. Mr. Dhillon responded that there had been one complaint while at WHS, but that the MFDA had closed the file. The MFDA subsequently informed Ms. Royce on November 16, 2011, that it had not closed its file but had escalated the complaint to its Investigations Department. As described above, this became an enforcement proceeding and Mr. Dhillon was found to have contravened MFDA rules concerning off-book transactions.

[78] On November 14, 2011, the audit report was provided to Mr. Dhillon, listing six deficiencies, including further concerns regarding leverage unsuitability. As a result of the ongoing MFDA investigation, Queensbury suspended Mr. Dhillon's ability to initiate any new investment loans for non-registered accounts. On November 24, 2011, Mr. Dhillon called Ms. Royce to tell her he had spoken with the MFDA regarding the complaint against him, and that the MFDA told him "everything was ok". When Ms. Royce reached out to the MFDA, they denied this and stated that the file was still open.

[79] As a result of the audit, Mr. Dhillon was asked to complete a Leverage Review Worksheet (**Worksheet**) for each of his leveraged clients, updating their information. Given that virtually his entire client base was leveraged, Mr. Dhillon was required to complete 15 Worksheets per month, which meant that the review would be completed by mid-March 2012.

[80] Following this audit, there was frequent communication between Queensbury staff and Mr. Dhillon on various compliance issues: failure to complete the leverage reviews, failure to observe the reporting structure, and the continued use of pre-signed forms.

[81] On December 19, 2011, the WHS's Ultimate Designated Person (**UDP**) emailed Mr. Dhillon, with Ms. Royce copied on the email, reminding him to submit the first 15 Worksheets and of the seriousness of failing to do so. Mr. Dhillon responded later on the same day, saying there "is some reason why I did not comply with our staff ... these clients won't qualify now with the new hard rules …" On December 21, 2011, the UDP responded that there was no acceptable reason not to comply with compliance staff and, to avoid further disciplinary action, Mr. Dhillon should respect these requests.

[82] On January 25, 2012, Ms. Royce emailed Mr. Dhillon that she should have received 45 Worksheets, but had received only 10. She again emailed him on February 9, 2012, to remind him to complete the Worksheets. Mr. Dhillon replied: "I am not delinquent in providing you with the reports … I am very busy to find my life partner and may be [sic] I have to go to India for few days for this purpose and I cannot put that aside to do the other jobs." From March through May 2012, Ms. Royce repeatedly emailed Mr. Dhillon, but received no response.

[83] Ms. Royce also found that Mr. Dhillon used pre-signed forms for his client KN. In January 2012 she brought this to his attention. Mr. Dhillon denied using pre-signed forms and claimed "I have never done this mistake before in my 22 years of this [sic] business and have good reputation with my previous dealers."

[84] In an email to Ms. Royce dated January 5, 2012, Mr. Dhillon wrote: "You can put any one in the problem any time … just by simply destroying original copies and keeping photocopies with you to say that you received only photocopies."

[85] In his 2013 Interview, Mr. Dhillon suggested that Queensbury had intentionally destroyed papers because of a commission dispute.

[86] In her affidavit, Ms. Royce described Mr. Dhillon's repeated failure to observe the internal reporting structure. Mr. Dhillon would frequently go directly to the UDP rather than to Ms. Royce, as CCO. Despite repeated requests by the UDP to engage directly with Ms. Royce, Mr. Dhillon continued to raise issues with the UDP directly.

[87] On February 16, 2012, the UDP responded to Mr. Dhillon:

> "Your efforts to demean Betty Jo ... are unbecoming and will not be tolerated ... Failure to comply with [the Code of Conduct] and with requests for information from a corporate officer, or from compliance personnel, will bring your suitability for registration into question."

[88] In April 2012, because of Mr. Dhillon's lack of response, Queensbury began contacting some of his clients directly by way of a standard letter. The purpose of the letter was to determine if the correct financial information for the client had been provided to the firm, to advise the client that the account was off-side MFDA leverage guidelines, to obtain current Know Your Client (**KYC**) information and to provide appropriate leverage disclosure. The letter also gave clients options for dealing with their accounts. By June 23, 2012, Queensbury had sent approximately 23 letters to Mr. Dhillon's clients.

[89] On June 22, 2012, Ms. Royce emailed Mr. Dhillon to advise him that if Queensbury did not receive a response from him in relation to all outstanding emails by July 2, 2012, the firm would withhold all commissions payable to him. The following day Mr. Dhillon responded. He stated his clients had advised him that they had received a letter from Queensbury regarding their leveraged investments.

[90] On June 23, 2012, Ms. Royce emailed Mr. Dhillon to advise him that the restrictions on his ability to increase leverage by writing new loans now extended to registered, as well as non-registered accounts. Mr. Dhillon resigned three days later, effective June 26, 2012.

[91] In the termination notice filed by Queensbury, one of the four reasons for terminating Mr. Dhillon's registration was that Mr. Dhillon made unsuitable leverage recommendations. In the 2013 Interview, Mr. Dhillon testified that none of these recommendations was unsuitable.

[92] In his 2016 Interview with Staff, described more fully below, when asked if he thought he cooperated with Queensbury staff, Mr. Dhillon replied" "Fully, a hundred percent."

(d) Attempt to register with Teammax Investment Corp. (2012)

[93] On September 13, 2012, Mr. Dhillon applied for registration as a mutual fund dealing representative with Teammax Investment Corp. (**Teammax**). This prompted Mr. Dhillon's 2013 Interview with Staff. Aspects of that interview have been summarized earlier, although for convenience, a more comprehensive summary follows.

[94] In his registration application and during the 2013 Interview, Mr. Dhillon made a number of questionable statements. First, he represented that up to August 20, 2010, there had been no complaint filed with the MFDA and no investigation launched by the MFDA on the use of leveraged strategies. This statement was untrue, given the RB complaint referred to above and the MFDA warning letter of June 28, 2005. By the time of the application and interview, Mr. Dhillon was also aware that the MFDA had escalated the complaint of unsuitable leverage recommendations to its Investigations Department.

[95] Second, Mr. Dhillon stated he had been 100% compliant for his 22 years in the investment industry and that he spent four to five hours with each client explaining in detail all documents and strategies until the client was fully comfortable. Mr. Dhillon stated: "I hereby confirm again all my forms and subsequence [sic] transactions were executed in front of my clients and there never happened any pre-signed form in my practice." Both Queensbury and WHS had found serious compliance deficiencies, including pre-signed forms. Moreover, Mr. Dhillon's clients told the WHS CCO that Mr. Dhillon did not explain margin calls or the risk of leverage to them.

[96] Third, Mr. Dhillon stated that, during his 13 years with WHS, he received no client complaints; nor was he subject to restrictions concerning unsuitable recommendations. He further stated that he was unaware of having made any unsuitable recommendation during his tenure with WHS. This statement was untrue, given the RB complaint and the fact that he was placed on internal suspension and strict supervision based on deficiencies, including investment unsuitability, identified during an audit.

[97] Mr. Dhillon stated in his application for registration that he believes an unsuitable recommendation is "to put client at risk and lost money [sic]. 95% my clients are making profit, all my accounts are in positive position." Of course, suitability is not dependent on whether the recommended investments make or lose money. All investments have some degree of risk, but suitability is determined by the appropriateness of particular investments for the clients, given their financial circumstances, their time horizon for the investment and their risk profile. In any event, a number of his clients described market losses they experienced.

[98] Last, Mr. Dhillon stated he had no restriction on his leveraged strategies while at WHS and was only told orally not to use this strategy at Queensbury due to new MFDA guidelines. In fact, Queensbury suspended Mr. Dhillon, in writing, from adding new loans or increasing existing ones because of the outstanding MFDA investigation and because of his continual and prolonged delay in submitting Worksheets.

[99] Based on Mr. Dhillon's history, Staff recommended that Mr. Dhillon's application for registration be denied.

[100] In a letter to Mr. Dhillon dated April 9, 2013 (the **2013 Recommendation Letter**), Staff outlined potential corrective actions on Mr. Dhillon's part, including a period of employment involving a non-registerable activity which would demonstrate a track record of compliance and cooperation with his employer; addressing any tax falsification issues with the Canada Revenue Agency; and the successful completion of the Conduct and Practices Handbook Course, or an equivalent course. Staff stated that these actions might demonstrate Mr. Dhillon's requisite integrity for registration in the future. Staff informed Mr. Dhillon that he could request an opportunity to be heard (**OTBH**). His Teammax-related application was ultimately abandoned on February 18, 2014.

(e) Application with Shah Financial Planning Inc.

[101] On June 14, 2016, Mr. Dhillon applied for registration as a mutual fund dealing representative with Shah.

[102] On June 24, 2016, Staff interviewed Mr. Dhillon. Staff submits that Mr. Dhillon had not gained any meaningful insight into his prior misconduct and had taken little in the way of corrective measures to address Staff's concerns about his suitability for registration.

[103] During the interview, Mr. Dhillon stated that he fully complied when at Queensbury, stating he cooperated, "[f]ully, a hundred percent" and that at WHS "I did a hundred percent right." He further claimed that WHS's allegations against him were prompted by his refusal to pay the WHS CCO "under the table."

[104] Mr. Dhillon indicated that the subsequent findings against WHS, Marilyn Dianne Stuart and Walter Howard Stuart tainted the MFDA's finding against him. He said that there would have been no case against him if the timing of the decisions had been reversed.

[105] On August 6, 2016, Staff sent Mr. Dhillon a letter informing him that Staff had recommended to the Director that his application be refused. The grounds for refusal were: (1) Mr. Dhillon did not meet the statutory course requirement for registration because he had not been registered in Canada during the 36-month period prior to his application, or gained 12 months relevant securities experience during that 36-month period; (2) his prior conduct as described in the 2013 Recommendation Letter; (3) his failure to take any corrective action; and (4) his continued lack of appreciation for, or acceptance of, any responsibility for his misconduct.

[106] On June 23, 2017, an OTBH was held at Mr. Dhillon's request. Mr. Dhillon maintained the position that he had done nothing wrong, and that others had conspired against him because they were jealous of him or wanted to rob him of his business.

(f) Analysis of Mr. Dhillon's Integrity

[107] At the hearing and review before the Commission, Mr. Dhillon repeated the same general themes he developed during the Staff interviews, the MFDA hearing and at the OTBH before the Director. He submitted that the CCO at WHS was "greedy" and "ripped off 34 agents badly". He stated that the CCO made false allegations regarding off-book trading so that WHS could keep his clients from transferring their accounts to Queensbury when Mr. Dhillon started working there.

[108] He claimed that PFSL made up the complaint from JB because they were "robbing" him. He stated there was no proof JB had given him a cheque for $15,000, even though JB provided a copy of the cancelled cheque.

[109] He submitted that individuals at Queensbury lied, cheated him and wanted to "rob me and snatch my business". He claimed that the CCO prevented him from seeing his clients, which was the reason he did not update KYC forms or Worksheets. Yet previously, during the 2013 Interview, Mr. Dhillon had told Staff that he was too busy to complete the Worksheets because he had to go to India to find his life partner and/or that the new MFDA rules put his clients offside because they were retired.

[110] Mr. Dhillon continued to insist that there had not been any complaints against him because if the complaint had no merit in his opinion, then he did not consider it a complaint.

[111] Mr. Dhillon maintained that the 2016 MFDA decision against WHS, Marilyn Dianne Stuart and Walter Howard Stuart made the complaints against him baseless. We observe that the WHS decisions (see paragraph [26]) provided to us are unrelated to the allegations against Mr. Dhillon, though we took the findings made against WHS and its principals into consideration in evaluating whether their representations as to Mr. Dhillon's conduct could safely be relied upon.

[112] In relation to the preparation and filing by Mr. Dhillon of a false tax return on behalf of his client, Mr. Dhillon provided two explanations. These bear repetition here. One explanation was as follows: "If he is under-reporting then it is his problem." Later, in his 2013 Interview with Staff he claimed JS "forced" him to under-report income. Mr. Dhillon's dishonest conduct can be considered relevant to his lack of integrity and therefore unsuitability for registration even if that prior dishonesty does not relate to his activities as a registrant in the securities industry.

[113] Based on the totality of evidence presented to us, we are satisfied that the allegations made against Mr. Dhillon are true. The core allegations bear obvious similarities even though they emanate from multiple independent sources. It defies coincidence to suggest that all of the allegations are false and ill-motivated. Based on the evidence, it is obvious that Mr. Dhillon repeatedly used pre-signed forms, recommended unsuitable leverage strategies to clients and engaged in off-book trading activities. It is also obvious that he mistreated compliance staff at multiple firms, and failed to comply with their directions. His comments show little respect for the compliance function in the industry and demonstrate that he has a disregard for the importance of the regulations which applied to his position.

[114] Mr. Dhillon's testimony before the MFDA's hearing panel was characterized as contradictory, tangential and self-serving. These words describe Mr. Dhillon's representations to us as well.

[115] Leaving aside his unsupportable claims that multiple firms falsely implicated him in serious misconduct, his own explanations provided evidence of his lack of integrity. Examples include:

- He claimed that he had paid back the full amount owed to his client RS. The documentary evidence did not support that claim;
- He claimed that he had never received $15,000 from JB, despite the evidence of the cancelled cheque;
- He admitted that he had offered to loan RB money to maintain monthly payments owing, despite knowing that such an offer contravened MFDA rules;

- In September 2010, he stated that there had never been any complaints about him in the 13 years he worked at WHS. This was demonstrably untrue. His explanation that he was referring only to complaints that he felt had merit was patently misleading and false;

- His representations to the MFDA's hearing panel were demonstrably false. The MFDA's hearing panel found that his actions amounted to a case of deliberate, blatant misconduct by an experienced and seasoned Approved Person;

- In response to a letter from the Queensbury CCO, he represented that all of his leveraged clients had "good or excellent investment knowledge", had a high risk tolerance, a growth objective and an investment horizon of 20 years or more. He took that position despite his 2013 admission that many of his leveraged clients were retired, with little income. His representations were demonstrably false;

- He was a knowing party to under-reporting in a tax return he prepared. His explanations that under-reporting was the client's problem and that the client was "forcing" him to under-report were not only inconsistent, but evidence of complicity in dishonesty;

- He falsely represented to Ms. Royce that the MFDA had closed a complaint file against him, and later, that the MFDA had advised him that "everything was ok";

- In January 2012, he stated to Ms. Royce that he had never used pre-signed forms in his employment history and repeated this claim in his 2013 Interview, despite having signed a WHS Compliance Audit in 2002 that stated it had discovered the use of blank pre-signed forms by Mr. Dhillon;

- He provided a completely unacceptable explanation to the Queensbury CCO and UDP as to why he was non-compliant with the direction by compliance staff;

- In his application for registration with Teammax and during his 2013 Interview, he made multiple false statements. These are described earlier in our Reasons;

- He stated that, during his 13 years with WHS, he did not receive any complaints; nor was he subject to restrictions as a result of unsuitable recommendations. He further stated that he was unaware of any unsuitable recommendations during his tenure with WHS. This statement was untrue, given the RB complaint and the fact that he was placed on internal suspension and strict supervision based on deficiencies, including investment unsuitability, identified during an audit; and

- He demonstrated in his application for registration that, at best, he misunderstood what an unsuitable recommendation entails.

[116] Mr. Dhillon refuses to be answerable for his actions, falsely insisting that any or most complaints, deficiencies or allegations are the result of others plotting to snatch his business away from him. He asserts that they are either jealous of him or do not understand his leveraged strategies. In his estimation, he has done nothing wrong, is not accountable or responsible.

[117] The evidence is truly overwhelming that Mr. Dhillon is effectively ungovernable and completely lacking in personal integrity.

3. Would Mr. Dhillon's registration be otherwise objectionable?

[118] As indicated earlier, it is unnecessary for us to determine whether Mr. Dhillon's registration would be otherwise objectionable in light of the compelling – indeed overwhelming – evidence that he is unsuitable for registration. In so concluding, we appreciate that the evidence of Mr. Dhillon's repeated non-compliance with the requirements pertaining to a registrant would be relevant to whether he is otherwise objectionable. However, the manner in which he responded to his employers, and to his regulators when his non-compliance was raised with him, also constituted important evidence of his lack of integrity.

VII. CONCLUSION

[119] For the reasons given, we are satisfied on a balance of probabilities that Mr. Dhillon is not suitable for registration based both on a lack of the requisite proficiency and lack of integrity. Accordingly, the Commission dismisses Mr. Dhillon's application and confirms the Director's Decision that Mr. Dhillon is unsuitable for registration.

Dated at Toronto this 3rd day of April, 2018.

“Mark J. Sandler”

“Deborah Leckman”

“AnneMarie Ryan”

3.1.2 Muchoki Fungai Simba (also known as Henderson MacDonald Alexander Butcher)

IN THE MATTER OF
MUCHOKI FUNGAI SIMBA
(also known as Henderson MacDonald Alexander Butcher)

REASONS AND DECISION

Citation: *Simba (Re)*, 2018 ONSEC 15
Date: 2018-04-04
File No.: 2018-6

Hearing:	March 29, 2018	
Decision:	April 4, 2018	
Panel:	D. Grant Vingoe	Vice Chair and Chair of the Panel
Appearances:	Alvin Qian	For Staff of the Commission
		No one appearing on behalf of Muchoki Fungai Simba

REASONS AND DECISION

[1] On February 8, 2018, Staff of the Ontario Securities Commission issued a Statement of Allegations pursuant to section 127 of the *Securities Act*, RSO 1990, c S.5, against Muchoki Fungai Simba (**Simba**).

[2] The first attendance was originally scheduled for March 29, 2018. Staff appeared on this date. However, Simba did not attend although properly served.

[3] At this attendance, Staff provided an Affidavit of Service of Laura Filice, sworn February 13, 2018, which contained as an exhibit an email from Simba advising of his request to remove all references to the name Henderson MacDonald Alexander Butcher (**Butcher**) on the basis that this name had historical connotations that were offensive to him.

[4] I treated this email as a motion to amend the Statement of Allegations and waived the filing requirements for such a motion.

[5] Staff advised that they did not agree with removing the reference to Butcher, but suggested instead to amend the Statement of Allegations to reflect that Butcher was a “previous” name of Simba. Staff advised that Simba had legally changed his name from Butcher to Simba.

[6] Based on Simba’s email and the submissions made at the attendance by Staff, in my view at this time, it is appropriate to follow Staff’s proposal and an amended Statement of Allegations will be issued following these reasons. The amended Statement of Allegations will reflect that Butcher is the “previous” name of Simba.

[7] I agree with Staff’s approach because it is in the public interest for the public record to show when an individual has used more than one name, and particularly in cases where the individual is a former registrant and was registered under the former name.

[8] Simba may make additional submissions on the issue of the amended Statement of Allegations at the next scheduled attendance on April 23, 2018 at 11:30 a.m.

Dated at Toronto this 4th day of April, 2018.

“D. Grant Vingoe”

This page intentionally left blank

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
Avcorp Industries Inc.	09 April 2018	
B&A Fertilizers Limited	05 May 2016	06 April 2018
EA Education Group Inc.	05 January 2018	06 April 2018
Jagercor Energy Corp.	09 April 2018	
Tellza Inc.	06 April 2018	

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	

This page intentionally left blank

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:
Canoe EIT Income Fund
Principal Regulator – Alberta (ASC)
Type and Date:
Preliminary Short Form Prospectus (NI 44-101) dated April 3, 2018
NP 11-202 Preliminary Receipt dated April 3, 2018
Offering Price and Description:
Offering: $70,000,000 – 2,800,000 Preferred Units
4.80% Cumulative Redeemable Series 2 Preferred Units
Price: $25.00 per Series 2 Preferred Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Industrial Alliance Securities Inc.
Canaccord Genuity Corp.
Manulife Securities Incorporated
Promoter(s):
N/A
Project #2746156

Issuer Name:
Fidelity Canadian Growth Company Fund
Fidelity Greater Canada Fund
Fidelity U.S. Dividend Fund
Fidelity U.S. Dividend Registered Fund
Fidelity China Fund
Fidelity Emerging Markets Fund
Fidelity Far East Fund
Fidelity Global Small Cap Fund
Fidelity Global Consumer Industries Fund
Fidelity Global Financial Services Fund
Fidelity Canadian Asset Allocation Fund
Fidelity Tactical High Income Fund
Fidelity U.S. Money Market Fund
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus and Amendment #4 Annual Information Form dated April 1, 2018
Received on April 3, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Fidelity Investments Canada Limited
Promoter(s):
N/A
Project #2675619

Issuer Name:
Fidelity Investment Grade Total Bond Fund
Fidelity Investment Grade Total Bond Currency Neutral Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus, Annual Information Form dated April 6, 2018
Received on April 6, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Promoter(s):
Fidelity Investments Canada ULC
Project #2700369

Issuer Name:
First Asset Canadian Dividend Low Volatility Index ETF
First Asset U.S. Equity Multi-Factor Index ETF
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated April 9, 2018
Received on April 9, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
First Asset Investment Management Inc.
Project #2632751

Issuer Name:
Invesco S&P 500 Equal Weight Index ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated April 9, 2018
NP 11-202 Preliminary Receipt dated April 9, 2018
Offering Price and Description:
CAD Units, USD Units and the CAD Hedged Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2754949

Issuer Name:
Mawer Balanced Fund
Mawer Canadian Bond Fund
Mawer Canadian Equity Fund
Mawer Canadian Money Market Fund
Mawer Emerging Markets Equity Fund
Mawer Global Balanced Fund
Mawer Global Bond Fund
Mawer Global Equity Fund
Mawer Global Small Cap Fund
Mawer International Equity Fund
Mawer New Canada Fund
Mawer Tax Effective Balanced Fund
Mawer U.S. Equity Fund
Principal Regulator – Alberta (ASC)
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated April 5, 2018
NP 11-202 Preliminary Receipt dated April 6, 2018
Offering Price and Description:
Series S Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Mawer Investment Management Ltd.
Project #2754398

Issuer Name:
Excel China Fund
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated March 28, 2018
NP 11-202 Receipt dated April 4, 2018
Offering Price and Description:
Series A, F, I and N and Institutional Series
Underwriter(s) or Distributor(s):
Excel Funds Management Inc.
Promoter(s):
Excel Funds Management Inc.
Project #2671952

Issuer Name:
Fidelity Canadian Growth Company Fund
Fidelity Greater Canada Fund
Fidelity U.S. Dividend Fund
Fidelity U.S. Dividend Registered Fund
Fidelity China Fund
Fidelity Emerging Markets Fund
Fidelity Far East Fund
Fidelity Global Small Cap Fund
Fidelity Global Consumer Industries Fund
Fidelity Global Financial Services Fund
Fidelity Canadian Asset Allocation Fund
Fidelity Tactical High Income Fund
Fidelity U.S. Money Market Fund
Principal Regulator – Ontario
Type and Date:
Amendment #4 to Final Simplified Prospectus dated April 1, 2018
NP 11-202 Receipt dated April 5, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Fidelity Investments Canada Limited
Promoter(s):
N/A
Project #2675619

Issuer Name:
Fidelity American Disciplined Equity Class
Fidelity American Disciplined Equity Currency Neutral Class
Fidelity American Equity Class
Fidelity American Equity Currency Neutral Class
Fidelity AsiaStar Class
Fidelity Asset Allocation Currency Neutral Private Pool
Fidelity Asset Allocation Private Pool
Fidelity Balanced Class Portfolio
Fidelity Balanced Currency Neutral Private Pool
Fidelity Balanced Income Currency Neutral Private Pool
Fidelity Balanced Income Private Pool
Fidelity Balanced Private Pool
Fidelity Canadian Asset Allocation Class
Fidelity Canadian Balanced Class
Fidelity Canadian Disciplined Equity Class
Fidelity Canadian Equity Private Pool
Fidelity Canadian Growth Company Class
Fidelity Canadian Large Cap Class
Fidelity Canadian Opportunities Class
Fidelity Canadian Short Term Income Class
Fidelity China Class
Fidelity Concentrated Canadian Equity Private Pool
Fidelity Concentrated Value Private Pool
Fidelity Corporate Bond Class
Fidelity Dividend Class
Fidelity Dividend Plus Class
Fidelity Emerging Markets Class
Fidelity Europe Class
Fidelity Event Driven Opportunities Class
Fidelity Event Driven Opportunities Currency Neutral Class
Fidelity Far East Class
Fidelity Global Balanced Class Portfolio
Fidelity Global Class
Fidelity Global Concentrated Equity Class
Fidelity Global Consumer Industries Class
Fidelity Global Disciplined Equity Class
Fidelity Global Disciplined Equity Currency Neutral Class
Fidelity Global Dividend Class
Fidelity Global Equity Currency Neutral Private Pool
Fidelity Global Equity Private Pool
Fidelity Global Financial Services Class
Fidelity Global Growth Class Portfolio
Fidelity Global Health Care Class
Fidelity Global Income Class Portfolio
Fidelity Global Innovators Class
Fidelity Global Innovators Currency Neutral Class
Fidelity Global Intrinsic Value Class
Fidelity Global Intrinsic Value Currency Neutral Class
Fidelity Global Large Cap Class
Fidelity Global Large Cap Currency Neutral Class
Fidelity Global Natural Resources Class
Fidelity Global Real Estate Class
Fidelity Global Small Cap Class
Fidelity Global Telecommunications Class
Fidelity Greater Canada Class
Fidelity Growth Class Portfolio
Fidelity Income Class Portfolio
Fidelity Insights Class
Fidelity Insights Currency Neutral Class
Fidelity International Disciplined Equity Class
Fidelity International Disciplined Equity Currency Neutral Class
Fidelity International Equity Currency Neutral Private Pool
Fidelity International Equity Private Pool
Fidelity International Growth Class
Fidelity Japan Class
Fidelity Monthly Income Class
Fidelity North American Equity Class
Fidelity NorthStar Class
Fidelity NorthStar Currency Neutral Class
Fidelity Premium Fixed Income Private Pool Class
Fidelity Small Cap America Class
Fidelity Small Cap America Currency Neutral Class
Fidelity Special Situations Class
Fidelity Technology Innovators Class (formerly, Fidelity Global Technology Class)
Fidelity True North Class
Fidelity U.S. All Cap Class
Fidelity U.S. All Cap Currency Neutral Class
Fidelity U.S. Equity Currency Neutral Private Pool
Fidelity U.S. Equity Private Pool
Fidelity U.S. Focused Stock Class (formerly Fidelity Growth America Class)
Fidelity U.S. Focused Stock Currency Neutral Class
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated April 1, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
Series A, B, E1, E1T5, E2, E2T5, E3, E3T5, E4, E5, F, F5, F8, P1, P1T5, P2, P2T5, P3, P3T5, P4, P4T5, P5, P5T5, S5, S8, T5 and T8 shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Fidelity Investments Canada ULC
Project #2729743

Issuer Name:
Fidelity ClearPath® 2060 Portfolio
Fidelity Emerging Markets Local Currency Debt Investment Trust
Fidelity Founders Class
Fidelity Founders Currency Neutral Class
Fidelity Founders Investment Trust
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated April 3, 2018
NP 11-202 Receipt dated April 4, 2018
Offering Price and Description:
Series A, B, E1, E2, F, O, P1 and P2 units and Series A, B, E1, E1T5, E2, E2T5, E3, E3T5, E4, E5, F, F5, F8, P1, P1T5, P2, P2T5, P3, P3T5, P4, P5, S5, S8, T5 and T8 shares
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Promoter(s):
Fidelity Investments Canada ULC
Project #2736874

Issuer Name:
Franklin Liberty Canadian Investment Grade Corporate ETF
Franklin Liberty Core Balanced ETF
Franklin Liberty Global Aggregate Bond ETF (CAD-Hedged)
Franklin Liberty Risk Managed Canadian Equity ETF
Franklin Liberty Senior Loan ETF (CAD-Hedged)
Franklin Liberty U.S. Investment Grade Corporate ETF (CAD-Hedged)
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 6, 2018
NP 11-202 Receipt dated April 9, 2018
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Franklin Templeton Investments Corp.
Project #2724362

Issuer Name:
Franklin LibertyQT Emerging Markets Index ETF
Franklin LibertyQT Global Dividend Index ETF
Franklin LibertyQT International Equity Index ETF
Franklin LibertyQT U.S. Equity Index ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 6, 2018
NP 11-202 Receipt dated April 9, 2018
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2724772

Issuer Name:
Franklin Target Return Fund
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 6, 2018
NP 11-202 Receipt dated April 9, 2018
Offering Price and Description:
Series A Units, Series F Units, Series PF Units and Series O Units @ net asset value
Underwriter(s) or Distributor(s):
Franklin Templeton Investments Corp.
Promoter(s):
Franklin Templeton Investments Corp.
Project #2732278

Issuer Name:
Horizons Canadian Dollar Currency ETF
Horizons Canadian Midstream Oil & Gas Index ETF
Horizons Cdn Insider Index ETF
Horizons Inovestor Canadian Equity Index ETF
Horizons Marijuana Life Sciences Index ETF (formerly Horizons Medical Marijuana Life Sciences ETF)
Horizons Robotics and Automation Index ETF
Horizons US Dollar Currency ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 3, 2018
NP 11-202 Receipt dated April 6, 2018
Offering Price and Description:
Class A units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2732348

Issuer Name:
Mackenzie Canadian Short Term Fixed Income ETF
Mackenzie Core Plus Canadian Fixed Income ETF
Mackenzie Core Plus Global Fixed Income ETF
Mackenzie Floating Rate Income ETF
Mackenzie Global High Yield Fixed Income ETF
Mackenzie Global Leadership Impact ETF
Mackenzie Ivy Global Equity ETF
Mackenzie Portfolio Completion ETF
Mackenzie Unconstrained Bond ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 3, 2018
NP 11-202 Receipt dated April 6, 2018
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Mackenzie Financial Corporation
Project #2730192

Issuer Name:
Russell Investments Multi-Factor International Equity Pool
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated March 21, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
Series A, B, F and O units @ net asset value
Underwriter(s) or Distributor(s):
Russell Investments Canada Limited
Promoter(s):
Russell Investments Canada Limited
Project #2634928

Issuer Name:
Russell Investments Multi-Factor US Equity Pool
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated April 4, 2018
NP 11-202 Receipt dated April 6, 2018
Offering Price and Description:
Series A, B, F and O Units @ net asset value
Underwriter(s) or Distributor(s):
Russell Investments Canada Limited
Promoter(s):
Russell Investments Canada Limited
Project #2736869

Issuer Name:
The GBC American Growth Fund Inc.
The GBC Canadian Bond Fund
The GBC Canadian Growth Fund
The GBC Growth and Income Fund
The GBC International Growth Fund
The GBC Money Market Fund
Principal Regulator – Quebec
Type and Date:
Final Simplified Prospectus dated March 29, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
Series A @ net asset value
Underwriter(s) or Distributor(s):
Pembroke Private Wealth Management Ltd.
Promoter(s):
Pembroke Private Wealth Management Ltd.
Project #2741434

Issuer Name:
W.A.M. Collins Income Pool (formerly, W.A.M. Collins Global Portfolio)
Willoughby Investment Pool
Principal Regulator – British Columbia
Type and Date:
Final Simplified Prospectus dated April 6, 2018
NP 11-202 Receipt dated April 6, 2018
Offering Price and Description:
Series A and F units @ net asset value
Underwriter(s) or Distributor(s):
Harbourfront Wealth Management Inc.
Promoter(s):
Willoughby Asset Management Inc.
Project #2735196

NON-INVESTMENT FUNDS

Issuer Name:
Crown Point Energy Inc.
Principal Regulator – Alberta (ASC)
Type and Date:
Amendment dated April 6, 2018 to Preliminary Short Form Prospectus dated February 22, 2018
NP 11-202 Preliminary Receipt dated April 6, 2018
Offering Price and Description:
Maximum: US$12,000,000.00
Minimum: US$8,000,000.00
Offering of 32,903,038 Rights to Subscribe for up to 40,000,000 Common Shares
at an Exercise Price of US$0.30 per Common Share
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2731878

Issuer Name:
Growlife, Inc.
Type and Date:
Preliminary Long Form Prospectus dated April 5, 2018
(Preliminary) Receipted on April 6, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Not Applicable
Promoter(s):
Not applicable
Project #2754381

Issuer Name:
Phivida Holdings Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary Short Form Prospectus dated April 3, 2018
NP 11-202 Preliminary Receipt dated April 3, 2018
Offering Price and Description:
$8,004,000.00
6,960,000 Units
Price: $1.15 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Mackie Research Capital Corporation
Haywood Securities Inc.
Promoter(s):
John-David A. Belfontaine
Kyle Johnston
Project #2753355

Issuer Name:
Spey Resources Corp.
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated March 29, 2018
NP 11-202 Preliminary Receipt dated April 3, 2018
Offering Price and Description:
3,500,000 Common Shares
at a price of $0.10 per Share
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
Marshall Farris
Project #2751731

Issuer Name:
Transcontinental Inc.
Principal Regulator – Quebec
Type and Date:
Preliminary Short Form Prospectus dated April 6, 2018
NP 11-202 Preliminary Receipt dated April 6, 2018
Offering Price and Description:
$250,040,000.00
9,400,000 Subscription Receipts
each representing the right to receive one Class A Subordinate Voting Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Merrill Lynch Canada Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Desjardins Securities Inc.
Canaccord Genuity Corp.
Cormark Securities Inc.
J.P.Morgan Securities Canada Inc.
Promoter(s):
–
Project #2752683

Issuer Name:
Aquinox Pharmaceuticals, Inc.
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated April 3, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
US$250,000,000.00 – Common Stock, Preferred Stock, Debt Securities, Warrants
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2742951

Issuer Name:
CannaRoyalty Corp.
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated April 6, 2018
NP 11-202 Receipt dated April 9, 2018
Offering Price and Description:
$15,000,000.00
3,750,000 Units
Price: $4.00 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Beacon Securities Limited
Sprott Private Wealth LP
Mackie Research Capital Corporation
Altacorp Capital Inc.
Infor Financial Inc.
Promoter(s):
Ajknj Corp.
Project #2741815

Issuer Name:
Cherry Street Capital Inc.
Principal Regulator – Ontario
Type and Date:
Final CPC Prospectus (TSX-V) dated April 3, 2018
NP 11-202 Receipt dated April 4, 2018
Offering Price and Description:
Minimum of $525,000.00 – 1,050,000 Common Shares
Maximum of $750,000.00 – 1,500,000 Common Shares
Price: $0.50 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
–
Project #2717719

Issuer Name:
IAMGOLD Corporation
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated March 28, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
U.S.$1,000,000,000.00
Common Shares
First Preference Shares
Second Preference Shares
Debt Securities
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2740817

Issuer Name:
Ironwood Capital Corp.
Principal Regulator – British Columbia
Type and Date:
Final CPC Prospectus (TSX-V) dated April 3, 2018
NP 11-202 Receipt dated April 6, 2018
Offering Price and Description:
$202,400.00 – 1,012,000 Common Shares
Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
–
Project #2717247

Issuer Name:
Legend Power Systems Inc.
Principal Regulator – British Columbia
Type and Date:
Final Short Form Prospectus dated April 3, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
$10,000,000.00 – 12,500,000 common shares
Price: $0.80 per common share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Canaccord Genuity Corp.
Haywood Securities Inc.
Promoter(s):
–
Project #2743696

Issuer Name:
Premium Brands Holdings Corporation
Principal Regulator – British Columbia
Type and Date:
Final Short Form Prospectus dated April 3, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
$150,000,000.00
4.65% Convertible Unsecured Subordinated Debentures
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
National Bank Financial Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
Cormark Securities Inc.
Canaccord Genuity Corp.
Industrial Alliance Securities Inc.
PI Financial Corp.
Promoter(s):
–
Project #2741498

Issuer Name:
Titan Medical Inc.
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated April 3, 2018
NP 11-202 Receipt dated April 3, 2018
Offering Price and Description:
Minimum: CDN $10,000,000.00 (33,333,333 Units)
Maximum: CDN $15,000,000.00 (50,000,000 Units)
Price: CDN $0.30 per Unit
Underwriter(s) or Distributor(s):
Bloom Burton Securities Inc.
Promoter(s):
–
Project #2737841

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Suspended (Regulatory Action)	International Capital Management Inc.	Mutual Fund Dealer	April 2, 2018
New Registration	Canada Overseas Asset Management Limited	Portfolio Manager	April 4, 2018
Voluntary Surrender	Pershing Square Capital Management, L.P.	Exempt Market Dealer	March 23, 2018
Voluntary Surrender	Foremost Capital Inc.	Exempt Market Dealer	April 6, 2018
Change in Registration Category	Northwest & Ethical Investments L.P.	From: Investment Fund Manager, Portfolio Manager and Exempt Market Dealer To: Investment Fund Manager, Portfolio Manager, Exempt Market Dealer and Commodity Trading Manager	April 6, 2018
Voluntary Surrender	Ionic Securities Ltd.	Exempt Market Dealer	April 5, 2018

This page intentionally left blank

Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 IIROC – Republication of Proposed Amendments to Client Identification and Verification Requirements – Request for Comment

REQUEST FOR COMMENT

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

REPUBLICATION OF PROPOSED AMENDMENTS TO CLIENT IDENTIFICATION AND VERIFICATION REQUIREMENTS

IIROC is republishing for public comment proposed amendments to Part A of Rule 3200 of the proposed IIROC Dealer Member Plain Language Rule Book relating to client identification and verification requirements (2018 Proposed Amendments). IIROC originally published proposed amendments for comment on July 6, 2017 in Notice 17-0139 – *Proposed Amendments to Client Identification and Verification Requirements* (2017 Proposed Amendments).

IIROC now proposes material changes in response to public comments and discussions with stakeholders and the Canadian Securities Administrators (CSA). The primary difference between the 2018 Proposed Amendments and the 2017 Proposed Amendments relate to aligning the identification requirements exceptions with federal standards.

If approved, IIROC plans to implement the proposed amendments when the proposed PLR Rule Book becomes effective.

A copy of the IIROC Notice and appendices is also published on our website at www.osc.gov.on.ca. The comment period ends on May 14, 2018.

13.1.2 MFDA – Requirements Relating to the Disclosure of MFDA Membership – Notice of Commission Approval

MUTUAL FUND DEALERS ASSOCIATION OF CANADA
(MFDA)

REQUIREMENTS RELATING TO THE DISCLOSURE OF MFDA MEMBERSHIP

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved proposed MFDA Rule 2.13 (Disclosure of MFDA Membership) and proposed MFDA Policy No. 10 *Disclosure of MFDA Membership*. The rule and policy requires MFDA members to disclose to clients, on account statements and on the member's website, that they are regulated by the MFDA. The purpose of the rule and policy is to promote client awareness of the regulatory oversight exercised by the MFDA in respect of MFDA members and their approved persons.

The rule and policy was published for public comment on June 29, 2017. An original proposal was published for public comment on June 18, 2015. In response to comments received, the MFDA published the rule and policy and withdrew the original proposal. No comment letters were received for the rule and policy. A blacklined copy of rule and policy showing changes made to the version published for public comment can be found at http://www.osc.gov.on.ca. The rule and policy are effective January 1, 2019.

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 or approved the rule and policy.

13.1.3 IIROC – Variation and Restatement of Recognition Order – Notice of Commission Approval

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

VARIATION AND RESTATEMENT OF RECOGNITION ORDER

NOTICE OF COMMISSION APPROVAL

On March 9, 2018, the Commission issued an order (Variation Order) pursuant to section 144 of the *Securities Act* (Ontario) and subsection 78(1) of the *Commodity Futures Act* (Ontario) varying and restating an order dated May 16, 2008, as amended on May 28, 2010, recognizing IIROC as a self-regulatory organization.

The Variation Order amends Appendix A and Schedule 2 to clarify and update IIROC's reporting requirements.

A copy of the Variation Order is published in Chapter 2 of this Bulletin.

13.1.4 MFDA – Variation and Restatement of Recognition Order – Notice of Commission Approval

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

VARIATION AND RESTATEMENT OF RECOGNITION ORDER

NOTICE OF COMMISSION APPROVAL

On March 9, 2018, the Commission issued an order (Variation Order) pursuant to section 144 of the *Securities Act* (Ontario) varying and restating an order dated February 6, 2001, as amended on March 30, 2004, November 3, 2006, October 28, 2008, December 12, 2008 and October 29, 2014, recognizing the MFDA as a self-regulatory organization.

The Variation Order amends Schedule A and Appendix A to clarify and update the MFDA's reporting requirements.

A copy of the Variation Order is published in Chapter 2 of this Bulletin.

13.2 Marketplaces

13.2.1 CME Group Exchanges – Notice of Commission Order

CHICAGO MERCANTILE EXCHANGE INC.,
BOARD OF TRADE OF THE CITY OF CHICAGO, INC.,
COMMODITY EXCHANGE, INC., AND
NEW YORK MERCANTILE EXCHANGE, INC.

NOTICE OF COMMISSION ORDER

On April 6, 2018, the Commission issued an order (**Variation Order**) pursuant to section 144 of the *Securities Act* (Ontario) and sections 38 and 78 of the *Commodity Futures Act* (Ontario) (**CFA**) varying and restating the order exempting Chicago Mercantile Exchange Inc., Board of Trade of the City of Chicago, Inc., Commodity Exchange, Inc. and New York Mercantile Exchange, Inc. (together, the **CMEG Exchanges**) from recognition as exchanges. The Variation order provides an exemption for trades in commodity futures contracts on the CME Exchanges by a bank listed in Schedule I to the *Bank Act* (Canada) from the registration requirement under section 22 of the CFA, provided such trades are made as principal and only for the bank's own account. The Variation Order also allows the CMEG Exchanges to grant access to trading by participants in Ontario that have obtained an order from the Commission exempting them from the requirement to be registered under the CFA, and makes other minor non-substantive changes to update the exemption order.

A copy of the order is published in Chapter 2 of this Bulletin.

13.2.2 CSE – Notice of Approval of the Proposed Amendments to Policy 4 – Corporate Governance and Miscellaneous Provisions

CANADIAN SECURITIES EXCHANGE

NOTICE OF APPROVAL

AMENDMENTS TO POLICY 4

Corporate Governance and Emerging Markets Issuers Guidance and Requirements

INTRODUCTION

In accordance with the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 (the "Protocol"), CNSX Markets Inc. (“CSE”) has adopted, and the Ontario Securities Commission (OSC) has approved, significant changes to CSE Policy 4 – Corporate Governance and Miscellaneous Provisions.

On October 20th, 2017, CNSX Markets Inc. (“CSE”) published *Notice 2017-018 – Corporate Governance and Emerging Markets Issuers Guidance and Requirements*. CSE proposed to introduce specific requirements for applicants and existing listed companies. The period for public comment expired on November 20th, 2017. No public comment letters were received.

DESCRIPTION OF THE AMENDMENTS

The Amendments are intended to improve Issuer procedures to mitigate certain risks, and to provide adequate disclosure of those procedures and risks. For Listed Issuers, the impact is expected to be negligible because the CSE has been exercising its discretion to apply most of the principles since the publication of *Notice 2013-002 – CNSX – Issuer Guidance – Disclosure Obligations*. Issuers applying for listing will need to follow the new requirements and be expected to take into consideration the codified guidance.

The full text of the amendments is available in Notice 2017-018:

http://thecse.com/en/about/publications/notices/notice-2017-018-corporate-governance-and-emerging-markets-issuers

The amended policies are available on the CSE website under http://thecse.com/support/listed-companies/policies.

IMPLEMENTATION

The amendments are effective immediately.

Questions about this notice may be directed to:

Mark Faulkner,
Vice President Listings & Regulation
Mark.Faulkner@thecse.com
416-367-7341

Index

This page intentionally left blank