The Ontario Securities Commission

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April 26, 2018

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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)

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1.2 Notices of Hearing

1.2.1 Trilogy Mortgage Group Inc. and Trilogy Equities Group Limited Partnership – ss. 127(7), 127(8)

FILE NO.: 2018-21

IN THE MATTER OF
TRILOGY MORTGAGE GROUP INC. and
TRILOGY EQUITIES GROUP LIMITED PARTNERSHIP

NOTICE OF HEARING
Subsections 127(7) and (8) of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Application for Extension of Temporary Order

HEARING DATE AND TIME: April 26, 2018 at 2:00 p.m.

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

PURPOSE

The purpose of this proceeding is to consider whether the Commission should grant the Application filed by Staff of the Commission to extend the temporary order issued by the Commission on April 16, 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 17th 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.

1.2.2 Donna Hutchinson et al. – s. 127

FILE NO.: 2017-54

IN THE MATTER OF
DONNA HUTCHINSON,
CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDERS and
PATRICK JELF CARUSO

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

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: Tuesday, April 24, 2018 at 11:00 a.m.

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

PURPOSE

The purpose of this hearing is to consider whether it is in the public interest for the Commission to approve the Settlement Agreement dated April 20, 2018, between Staff of the Commission and Donna Hutchinson in respect of the Statement of Allegations filed by Staff of the Commission dated September 21, 2017.

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

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Dated at Toronto this 20th 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.

1.2.3 Miles S. Nadal – s. 127

FILE NO.: 2017-77

IN THE MATTER OF
MILES S. NADAL

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

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: Wednesday, April 25, 2018 at 11:15 a.m.

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

PURPOSE

The purpose of this hearing is to consider whether it is in the public interest for the Commission to approve the Settlement Agreement dated April 23, 2018 between Staff of the Commission and Miles S. Nadal in respect of the Statement of Allegations filed by Staff of the Commission dated December 12, 2017.

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

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

Dated at Toronto this 23rd 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.

1.3 Notices with Related Statements of Allegations

1.3.1 1832 Asset Management L.P. – ss. 127(1), 127.1

FILE NO.: 2018-20

IN THE MATTER OF
1832 ASSET MANAGEMENT L.P.

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

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: April 24, 2018 at 9:00 a.m.

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

PURPOSE

The purpose of this hearing is to consider whether it is in the public interest for the Commission to approve the Settlement Agreement dated April 19, 2018 between Staff of the Commission and 1832 Asset Management L.P. in respect of the Statement of Allegations filed by Staff of the Commission dated April 19, 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.

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Dated at Toronto this 19th 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
1832 ASSET MANAGEMENT L.P.

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 19, 2018 between Enforcement Staff and 1832 Asset Management L.P. ("**1832**").

B. FACTS:

Enforcement Staff makes the following allegations of fact:

1. The Respondent

1. 1832 is registered with the Commission as an investment fund manager ("**IFM**"), a Portfolio Manager, an Exempt Market Dealer and a Commodity Trading Manager.

2. 1832 is wholly owned by The Bank of Nova Scotia. 1832 acquired the Dynamic family of mutual funds (the "**Products**") in 2011.

3. 1832 is the manager of the Products, among other mutual funds. 1832's investment fund products are distributed to investors by dealing representatives ("**DRs**") registered with participating dealers, both third party and affiliated dealers.

4. The sales practices at issue in this proceeding only relate to 1832's role as manager of the Products.

2. Legislative Framework

5. 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.

6. 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**").

7. 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.

8. 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.

9. 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.

10. 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. 1832's Conduct

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

11. From November 2012 to October 2017 (the "**Relevant Period**"), 1832 permitted excessive spending on DRs for promotional activities, contrary to section 5.6 of NI 81-105.

12. During the Relevant Period, 1832 also permitted the provision of items to DRs that were not of minimal value and/or were not promotional in nature, contrary to section 5.6 of NI 81-105. 1832 also provided monetary benefits to DRs in the form of gift cards that were not permitted under NI 81-105.

(b) 1832 Conferences

13. During the months of May 2015 and May 2016, 1832 hosted two mutual fund sponsored conferences pursuant to section 5.2 of NI 81-105 and provided non-monetary benefits to DRs at these conferences that did not comply with subsection 5.2(e) and section 5.6 of NI 81-105.

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

14. During the Relevant Period, 1832 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.

15. During the Relevant Period, 1832 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. During the Relevant Period, 1832 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 provision of items resulting in a breach by 1832 of section 2.1 of NI 81-105;

2. During the months of May 2015 and May 2016, 1832 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 two conferences it held, resulting in a breach by 1832 of section 2.1 of NI 81-105;

3. During the period November 2012 to October 2016, 1832 provided monetary benefits to DRs in the form of gift cards that were not permitted under Part 3 of NI 81-105 resulting in a breach by 1832 of section 2.1 of NI 81-105;

4. During the Relevant Period, 1832 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, in breach of subsection 32(2) of the Act and section 11.1 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

5. During the Relevant Period, 1832 failed to maintain books, records and other documents as were reasonably required to demonstrate its compliance with section 2.1 and Part 5 of NI 81-105, in breach of paragraph 3 of subsection 19(1) of the Act; and

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

DATED this 19th day of April, 2018.

Ontario Securities Commission
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Toronto, Ontario
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1.5 Notices from the Office of the Secretary

1.5.1 Trilogy Mortgage Group Inc. and Trilogy Equities Group Limited Partnership

FOR IMMEDIATE RELEASE
April 17, 2018

TRILOGY MORTGAGE GROUP INC. and
TRILOGY EQUITIES GROUP LIMITED PARTNERSHIP,
File No. 2018-21

TORONTO – The Office of the Secretary issued a Notice of Hearing on April 17, 2018 setting the matter down to be heard on April 26, 2018 at 2:00 p.m. to consider an Application for Extension of a Temporary Order in the above named matter.

A copy of the Notice of Hearing dated April 17, 2018, Temporary Order dated April 16, 2018 and the Application of Staff of the Ontario Securities Commission dated April 16, 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)

1.5.2 Mackenzie Financial Corporation

FOR IMMEDIATE RELEASE
April 18, 2018

MACKENZIE FINANCIAL CORPORATION,
File No. 2018-15

TORONTO – The Commission issued its Oral Reasons for Approval of a Settlement in the above named matter.

A copy of the Oral Reasons for Approval of a Settlement dated April 16, 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)

1.5.3 1832 Asset Management L.P.

FOR IMMEDIATE RELEASE
April 19, 2018

1832 ASSET MANAGEMENT L.P.,
File No.2018-20

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 1832 Asset Management L.P. in the above named matter.

The hearing will be held on April 24, 2018 at 9:00 a.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 19, 2018 and Statement of Allegations dated April 19, 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 Maria Psihopedas

FOR IMMEDIATE RELEASE
April 20, 2018

MARIA PSIHOPEDAS,
File No. 2018-18

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

A copy of the Order dated April 20, 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)

1.5.5 Donna Hutchinson et al.

FOR IMMEDIATE RELEASE
April 20, 2018

DONNA HUTCHINSON,
CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDERS and
PATRICK JELF CARUSO

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 Donna Hutchinson in the above named matter.

The hearing will be held on April 24, 2018 at 11:00 a.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 20, 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 Maria Psihopedas

FOR IMMEDIATE RELEASE
April 23, 2018

MARIA PSIHOPEDAS,
File No. 2018-18

TORONTO – The Applicant, Maria Psihopedas, filed an Amended Application (For Hearing and Review of a Decision under Section 8 of the *Securities Act*) pursuant to an Order of the Commission dated April 20, 2018 with the Office of the Secretary in the above named matter.

A copy of the Amended Application dated April 20, 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)

1.5.7 Miles S. Nadal

FOR IMMEDIATE RELEASE
April 23, 2018

MILES S. NADAL,
File No. 2017-77

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 Miles S. Nadal in the above named matter.

The hearing will be held on April 25, 2018 at 11:15 a.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 23, 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 Pro-Financial Asset Management Inc. et al.

FOR IMMEDIATE RELEASE
April 24, 2018

PRO-FINANCIAL ASSET MANAGEMENT INC.,
STUART MCKINNON and
JOHN FARRELL

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

A copy of the Reasons and Decision on Sanctions and Costs and the Order dated April 23, 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)

1.5.9 1832 Asset Management L.P.

FOR IMMEDIATE RELEASE
April 24, 2018

1832 ASSET MANAGEMENT L.P.,
File No. 2018-20

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 1832 Asset Management L.P.

A copy of the Order dated April 24, 2018 and Settlement Agreement dated April 19, 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)

1.5.10 Donna Hutchinson et al.

FOR IMMEDIATE RELEASE
April 24, 2018

DONNA HUTCHINSON,
CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDERS and
PATRICK JELF CARUSO

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 Donna Hutchinson.

A copy of the Order dated April 24, 2018 and Settlement Agreement dated April 20, 2018 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

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For investor inquiries:

OSC Contact Centre
416-593-8314
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Chapter 2

Decisions, Orders and Rulings

2.2 Orders

2.2.1 Trilogy Mortgage Group Inc. and Trilogy Equities Group Limited Partnership – ss. 127(1), 127(5)

IN THE MATTER OF
TRILOGY MORTGAGE GROUP INC. and
TRILOGY EQUITIES GROUP LIMITED PARTNERSHIP

TEMPORARY ORDER
(Subsections 127(1) and 127(5))

WHEREAS:

1. it appears to the Ontario Securities Commission (the "Commission") that:

   a. Trilogy Mortgage Group Inc. is an Ontario corporation and is a mortgage brokerage and administrator;

   b. Trilogy Equities Group Limited Partnership appears to be an Ontario limited partnership;

   c. Trilogy Mortgage Group Inc. and Trilogy Equities Group Limited Partnership (collectively the "Respondents") have never been registered with the Commission in any capacity;

   d. the Respondents are not reporting issuers and have never filed a prospectus in Ontario;

   e. The Respondents appear to be operating as mortgage investment entities;

   f. The Respondents operate the website "trilogyequities.com" (the "Website") that solicits the public to invest in the Respondents by purchasing securities of the Respondents who pool the investors' funds and in turn will provide mortgages to fund real estate development projects;

   g. No Reports of Exempt Distribution (Form 45-106F1) have been filed with the Commission with respect to the Respondents;

   h. The Website described two real estate projects: the Cambridge Property and the Wilson Property:

      i. With respect to the Cambridge Property:

         1. the Website stated under "Project Status" that there is an "As is" appraisal valuing the Cambridge Property at $8,400,000". The appraisal in fact states that the Cambridge Property has an "As if complete" value of $8,400,000;

         2. The Website fails to mention that a receiver was appointed by Court order over the owner of the Cambridge Property on April 10, 2018;

      ii. With respect to the Wilson Property, the Website fails to mention that there is a motion to appoint a receiver over the owner of the Wilson Property to be heard on April 23, 2018;

   i. the Respondents may have participated in a course of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud contrary to subsection 126.1(1)(b) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"); or, contrary to 126.1(2) of the Act, directly or indirectly, attempted to engage or participate in any act, practice or course of conduct that is contrary to 126.1(1)(b) of the Act;

   j. the Respondents may have made statements that they knew or reasonably ought to have known were untrue or misleading and that would reasonably be expected to have a significant effect on the market price or value of a security, derivative, or underlying interest of a derivative, contrary to section 126.2 of the Act;

k. the Respondents may have engaged in trading of securities that constituted a distribution without a prospectus or an applicable exemption from the prospectus requirement, contrary to section 53 of the Act;

l. the Respondents may have acted contrary to the public interest; and

m. Staff are conducting an investigation into the conduct described above;

2. the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in subsection 127(5) of the Act;

3. the Commission is of the opinion that it is in the public interest to make this Order;

4. by Authorization Order made March 23, 2018, pursuant to subsection 3.5(3) of the Act, each of Maureen Jensen, D. Grant Vingoe, Timothy Moseley, Philip Anisman, Lawerence P. Haber, Robert P. Hutchison, Janet Leiper, Poonam Puri, Mark J. Sandler, and M. Cecilia Williams acting alone, is authorized to make orders under section 127 of the Act;

5. the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED pursuant to section 127 of the Act that:

1. pursuant to clause 2 of subsection 127(1), all trading in securities of Trilogy Mortgage Group Inc. and Trilogy Equities Group Limited Partnership shall cease;

2. pursuant to clause 2 of subsection 127(1), trading in any securities by Trilogy Mortgage Group Inc. and Trilogy Equities Group Limited Partnership shall cease;

3. pursuant to clause 3 of subsection 127(1), any exemptions contained in Ontario securities law do not apply to Trilogy Mortgage Group Inc. and Trilogy Equities Group Limited Partnership; and

4. pursuant to subsection 127(6) of the Act, this order shall take effect immediately and shall expire on the 15th day after its making unless extended by order of the Commission.

DATED at Toronto, this 16th day of April, 2018.

“Maureen Jensen”

2.2.2 Avigilon Corporation

Headnote

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

Applicable Legislative Provisions

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

April 18, 2018

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

AND

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

AND

IN THE MATTER OF
AVIGILON CORPORATION
(the Filer)

ORDER

Background

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

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

(a) the British Columbia Securities Commission is the principal regulator for this application,

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

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

"John Hinze"
Director, Corporate Finance
British Columbia Securities Commission

2.2.3 Maria Psihopedas – s. 8

FILE NO.: 2018-18

IN THE MATTER OF
MARIA PSIHOPEDAS

Robert P. Hutchison, Commissioner and Chair of the Panel

April 20, 2018

ORDER
Section 8 of the *Securities Act*, RSO 1990, c S.5

WHEREAS on April 18, 2018, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, for the first attendance in the Application for hearing and review filed by Maria Psihopedas (the "**Applicant**") on April 5, 2018 to review a decision of a Director of the Commission dated March 7, 2018;

ON HEARING the submissions of the representatives for the Applicant and for Staff of the Commission ("**Staff**");

IT IS ORDERED THAT:

1. The Applicant shall serve and file an Amended Application for hearing and review using the form in Appendix E of the Ontario Securities Commission *Rules of Procedure and Forms* (2017), 40 OSCB 8988, pursuant to Rule 14.2;

2. Staff shall serve and file the record of the original proceeding by no later than June 1, 2018;

3. By no later than July 6, 2018, Staff shall:

   a. file and serve the documents on which Staff intends to rely that are not already contained in the record of the original proceeding, if any;

   b. file and serve the affidavit evidence on which Staff intends to rely, Staff's witness list and notice of intention to call an expert witness, if any; and

   c. serve (but not file) summaries of the anticipated oral evidence of Staff's witnesses, if any;

4. By no later than July 20, 2018, the Applicant shall:

   a. file and serve the documents on which the Applicant intends to rely that are not already contained in the record of the original proceeding, if any;

   b. file and serve the affidavit evidence on which the Applicant intends to rely, the Applicant's witness list and notice of intention to call an expert witness, if any; and

   c. serve (but not file) summaries of the anticipated oral evidence of the Applicant's witnesses, if any;

5. If needed, a hearing to address any outstanding procedural issues may be held on July 24, 2018, commencing at 4:00 p.m. Each party shall contact the Registrar by no later than July 17, 2018 to advise whether such a hearing is necessary;

6. Staff shall serve and file written submissions by no later than August 31, 2018;

7. The Applicant shall serve and file written submissions by no later than September 14, 2018;

8. Staff shall serve and file reply written submissions, if any, by no later than September 21, 2018;

9. The Application for hearing and review will be heard on September 26 and 27, 2018, commencing at 10:00 a.m. on each scheduled day, or on such other dates or times as may be agreed to by the parties and set by the Office of the Secretary.

"Robert P. Hutchison"

2.2.4 MBMI Resources Inc. – s. 1(11)(b)

Headnote

Subsection 1(11)b – Order that the issuer is a reporting issuer for the purposes of Ontario securities law – Issuer is already a reporting issuer in British Columbia and Alberta – Issuer's securities listed for trading on the NEX board of TSX Venture Exchange – Continuous disclosure requirements in British Columbia and Alberta substantially the same as those in Ontario – Issuer has a significant connection to Ontario.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(11)(b).

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

AND

IN THE MATTER OF
MBMI RESOURCES INC.

ORDER
(Clause 1(11)(b))

UPON the application of MBMI Resources Inc. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to paragraph 1(11)(b) of the Act that the Applicant is a reporting issuer for the purposes of Ontario securities laws:

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

AND UPON the Applicant representing to the Commission as follows:

1 The Applicant was created under the laws of the Province of British Columbia on July 24, 1987 under the name of "Panarim Resources Inc." Effective November 1, 2002, the Applicant changed its name to MBMI Resources Inc. On June 15, 2012, the Applicant was continued as a corporation under the laws of the Province of Ontario.

2 The Applicant's head office and registered office are located at Suite 217, 8787 Woodbine Ave., Suite 217, Markham, Ontario, L3R 5W9.

3. The authorized capital of the Applicant consists of an unlimited number of common shares without par value (the **Common Shares**), of which 16,532,813 Common Shares are issued and outstanding as of the date hereof.

4. The Applicant is currently a reporting issuer under the *Securities Act* (British Columbia) (the **BC Act**) and the *Securities Act* (Alberta) (the **Alberta Act**).

5. The British Columbia Securities Commission (**BCSC**) is the principal regulator for the Applicant. The Commission will be the principal regulator for the Applicant once it has obtained reporting issuer status in Ontario. Upon the granting of this Order, the Applicant will amend its SEDAR profile to indicate that the Commission is its principal regulator.

6. As of the date hereof, the Applicant is not on the list of defaulting reporting issuers maintained pursuant to the BC Act or the Alberta Act, and is not in default of any of its obligations under the Act, the BC Act or the Alberta Act or the rules and regulators made thereunder.

7. The Applicant is not currently a reporting issuer or the equivalent in any jurisdiction in Canada other than Alberta and British Columbia.

8. The continuous disclosure requirements of the BC Act and the Alberta Act are substantially the same as the requirements under the Act.

9. The continuous disclosure materials filed by the Applicant under the BC Act and the Alberta Act are available on the System for Electronic Document Analysis and Retrieval.

10. The Applicant's Common Shares are listed and posted for trading on the NEX board of the TSX Venture Exchange (the **Exchange**) under the stock symbol "MBR.H". The Applicant's securities are not traded on any other stock exchange or trading or quotation system.

11. The Applicant is not in default of any of the rules, regulations or policies of the Exchange.

12. Pursuant to section 9.1 of the NEX Policy and section 18 of Policy 3.1 of the TSX Venture Exchange Corporate Finance Manual (**TSXV Manual**), a listed issuer, which is not otherwise a reporting issuer in Ontario, must assess whether it has a "Significant Connection to Ontario" (as defined in Policy 1.1 of the TSXV Manual) and, upon becoming aware that it has a Significant Connection to Ontario, promptly make a *bona fide* application to the Commission to be designated a reporting issuer in Ontario.

13. The Applicant has determined that it has a "Significant Connection to Ontario" in accordance with the applicable provisions of the TSXV Manual because the Applicant's CEO and CFO are resident in Ontario and its head office and registered offices are also located in Ontario.

14. The Applicant does not have a shareholder which holds sufficient securities of the Applicant to affect materially the control of the Applicant.

15. Neither the Applicant nor any of its officers or directors has:

    (a) been subject to any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority;

    (b) entered into a settlement agreement with a Canadian securities regulatory authority; or

    (c) been subject to any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor making an investment decision.

16. Neither the Applicant nor any of its officers or directors is or has been the subject of:

    (a) any known ongoing or concluded investigation by a Canadian securities regulatory authority, or a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision; or

    (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangement or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the preceding 10 years.

17. None of the officers or directors of the Applicant is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

    (a) any cease trade or similar orders, or orders that denied access to any exemption under Ontario securities law, for a period of more than 30 consecutive days, within the preceding 10 years; or

    (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the preceding 10 years;

    except that, with respect to Mr. Christopher Aiello and Mr. Joseph Chan who served as directors of the Applicant at the time, the BCSC and the Alberta Securities Commission (the **ASC**) issued cease trade orders (the **Cease Trade Orders**) in respect of the Applicant on June 7, 2013 and September 6, 2013, respectively, as a result of the Applicant's failure to file audited financial statements and related management's discussion and analysis for the financial year ended January 31, 2013. The Cease Trade Orders were revoked by the BCSC and the ASC on January 8, 2018.

AND UPON the Commission being satisfied that to do so is in the public interest;

IT IS HEREBY ORDERED pursuant to paragraph 1(11)(b) of the Act that the Applicant is a reporting issuer for the purposes of Ontario securities law.

DATED at Toronto on this 19th day of April, 2018.

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

2.2.5 Calpine Corporation

Headnote

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

Applicable Legislative Provisions

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

Citation: Re Calpine Corporation, 2018 ABASC 56

April 17, 2018

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

AND

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

AND

IN THE MATTER OF
CALPINE CORPORATION
(the Filer)

ORDER

Background

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

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

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

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

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

"Denise Weeres"
Manager, Legal
Corporate Finance

2.2.6 Nasdaq CXC Limited and Ensoleillement Inc. – s. 144

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

AND

IN THE MATTER OF
NASDAQ CXC LIMITED AND
ENSOLEILLEMENT INC.

ORDER
(Section 144 of the Act)

WHEREAS the Ontario Securities Commission (**Commission**) issued an order dated December 21, 2017 recognizing Ensoleillement Inc. and Nasdaq CXC Limited (**Nasdaq Canada**) as exchanges pursuant to section 21 of the Act (**Recognition Order**);

AND WHEREAS on June 29, 2017, in accordance with the *Process for the Review and Approval of Rules and the Information Contained in Form 21-101F2 and the Exhibits Thereto*, Nasdaq Canada filed a notice of proposed changes and request for comment (**NFI Notice**) whereby it proposed to provide Canadian "permitted clients" as defined in National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* access to the Nasdaq Fixed Income trading system (**NFI**) operated by its U.S. affiliate Execution Access, LLC for purposes of trading non-Canadian fixed income securities;

AND WHEREAS approval of the NFI operational arrangements described in the NFI Notice was still pending at the time the Recognition Order was granted;

AND WHEREAS the Commission has received an application pursuant to section 144 of the Act to vary the Recognition Order to reflect the approval by the Commission of the proposed changes described in the NFI Notice (**Approval**);

AND WHEREAS in the Commission's opinion, it would not be prejudicial to the public interest to issue an order varying the Recognition Order to reflect the Approval;

IT IS ORDERED that, pursuant to section 144 of the Act, the Recognition Order is 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
ENSOLEILLEMENT INC. AND
NASDAQ CXC LIMITED

AND

IN THE MATTER OF
NASDAQ, INC.

ORDER
(Section 21 of the Act)

WHEREAS Ensoleillement Inc. (CXCH) and Nasdaq CXC Limited (Nasdaq Canada) (collectively, the Applicants) have filed an application requesting recognition of CXCH and Nasdaq Canada as exchanges pursuant to section 21 of the Act (Application);

AND WHEREAS at the time of granting this order, CXCH is the sole shareholder of Nasdaq Canada, and Nasdaq, Inc. (Nasdaq) is the sole shareholder of CXCH;

AND WHEREAS Nasdaq Canada operates Nasdaq CXC, Nasdaq CX2 and Nasdaq CXD that are facilities of the exchange that trade Canadian exchange-traded securities;

AND WHEREAS Nasdaq Canada separately provides access to Canadian permitted clients wishing to use Nasdaq Fixed Income, a fixed income trading system for trading in U.S. fixed income securities;

AND WHEREAS on or about the effective date of this order Nasdaq Canada will continue operations as an exchange under the terms and conditions of this order;

AND WHEREAS the Commission has received certain representations and undertakings from the Applicants in connection with the Application;

AND WHEREAS the Commission considers the proper operation of CXCH and Nasdaq Canada as essential to investor protection and maintaining a fair and efficient capital market, and therefore requires that any conflicts of interest in the operation of CXCH and Nasdaq Canada be dealt with appropriately, the fairness and efficiency of the market not be impaired by any anti-competitive activity, and that systemic risks are monitored and controlled;

AND WHEREAS the Applicants represent that CXCH and Nasdaq Canada satisfy the criteria for recognition as an exchange in Schedule 1 of this order;

AND WHEREAS the Commission has determined that it is in the public interest to continue to recognize each of CXCH and Nasdaq Canada as an exchange pursuant to section 21 of the Act;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to vary the Recognition Order pursuant to section 144 of the Act;

AND WHEREAS CXCH, Nasdaq Canada and Nasdaq have agreed to the applicable terms and conditions set out in Schedule 2 to Schedule 4 to the Order;

IT IS ORDERED that:

(a) pursuant to section 21 of the Act, CXCH continues to be recognized as an exchange, and

(b) pursuant to section 21 of the Act, Nasdaq Canada continues to be recognized as an exchange,

provided that the Applicants and Nasdaq comply with the terms and conditions set out in Schedule 2, 3 and Schedule 4 to the Order, as applicable.

DATED this 20th day of April, 2018.

“Lawrence P. Haber”

“Frances Kordyback”

SCHEDULE 1

CRITERIA FOR RECOGNITION

PART 1 COMPLIANCE WITH NI 21-101 AND NI 23-101

1.1 Compliance with NI 21-101 and NI 23-101

The exchange complies with the requirements set out in National Instrument 21-101 *Marketplace Operation* (NI 21-101) and in National Instrument 23-101 *Trading Rules*, each as amended from time to time, which include requirements relating to:

(a) access;

(b) marketplace operations;

(c) exchange rules, policies and other similar instruments;

(d) order and trade transparency;

(e) transparency of marketplace operations;

(f) record keeping;

(g) marketplace systems and business continuity planning;

(h) confidentiality of information;

(i) outsourcing;

(j) clearing and settlement;

(k) fair and orderly markets;

(l) the management of conflicts of interest; and

(m) filing of financial statements.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

(a) effective oversight of the exchange;

(b) that business and regulatory decisions are in keeping with the exchange's public interest mandate;

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

  (i) appropriate representation of independent directors, and

  (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange;

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest; and

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 **Fitness**

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person.

PART 3 ACCESS

3.1 **Fair Access**

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure participants are appropriately registered under Ontario securities laws, or exempted from these requirements.

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

PART 4 REGULATION OF PARTICIPANTS ON THE EXCHANGE

4.1 **Regulation**

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 5 RULES AND RULEMAKING

5.1 **Rules and Rulemaking**

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

(b) In addition to meeting the requirements of NI 21-101 relating to market operations and exchange rules, policies and other similar instruments as referred to in paragraphs 1.1(b) and (c) of this Schedule, respectively, the Rules are also designed to

(i) ensure a fair and orderly market; and

(ii) provide a framework for disciplinary and enforcement actions.

PART 6 DUE PROCESS

6.1 **Due Process**

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for and provides for appeals or reviews of its decisions.

PART 7 CLEARING AND SETTLEMENT

7.1 **Clearing and Settlement**

The exchange has appropriate arrangements for the clearing and settlement of trades.

PART 8 SYSTEMS AND TECHNOLOGY

8.1 **Information Technology Risk Management Procedures**

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 9 FINANCIAL VIABILITY

9.1 Financial Viability

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

PART 10 FEES

10.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and are consistent with the requirements in Ontario securities laws, including those requirements listed in paragraphs 1.1(a) and (e) of this Schedule.

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

PART 11 INFORMATION SHARING AND REGULATORY COOPERATION

11.1 Information Sharing and Regulatory Cooperation

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

SCHEDULE 2

TERMS AND CONDITIONS APPLICABLE TO NASDAQ CANADA

1. **Definitions and Interpretation**

(a) For the purposes of this Schedule:

"accounting principles" means accounting principles as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

"Nasdaq Canada dealer" means a dealer that is also a significant shareholder;

"Nasdaq Canada marketplace participant" means a marketplace participant of Nasdaq Canada;

"affiliated entity" has the meaning ascribed to it in section 1.3 of National Instrument 21-101 *Marketplace Operation*;

"associate" has the meaning ascribed to it in subsection 1(1) of the Act;

"Board" means the board of directors of CXCH or Nasdaq Canada, as the context requires;

"criteria for recognition" means all the criteria for recognition set out in Schedule 1 to the Order;

"Competitor" means a person whose consolidated business, operations or disclosed business plans are in competition, to a significant extent, with the trading functions, market data services or other material lines of business of Nasdaq Canada or its affiliated entities;

"dealer" means "investment dealer", as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registration Obligations*;

"IIROC" means the Investment Industry Regulatory Organization of Canada;

"marketplace" has the meaning ascribed to it in subsection 1(1) of the Act;

"marketplace participant" has the meaning ascribed to it in section 1.1 of NI 21-101;

"Nominating Committee" means the committee established by CXCH pursuant to section 30 of Schedule 3;

"officer" has the meaning ascribed to it in subsection 1(1) of the Act;

"Regulatory Oversight Committee" means the committee established by Nasdaq Canada pursuant to section 7 of this Schedule;

"Rule" means a rule, policy, or other similar instrument of Nasdaq Canada;

"significant shareholder" means a person or company that beneficially owns or controls directly more than 5% of any class or series of voting shares of Nasdaq.

"unaudited consolidated financial statements" means financial statements that are prepared in the same manner as audited consolidated financial statements except that they are not audited; and

"unaudited non-consolidated financial statements" means financial statements that are prepared in the same manner as audited consolidated financial statements, except that

(i) they are not audited; and

(ii) investments in subsidiary entities, jointly controlled entities and associates are accounted for as specified for separate financial statements in International Accounting Standard 27 Separate Financial Statements.

(b) For the purposes of this Schedule, an individual is independent if the individual is "independent" within the meaning of section 1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:

(i) is a partner, officer, director or employee of a Nasdaq Canada marketplace participant, or of an affiliated entity of a Nasdaq Canada marketplace participant, who is responsible for or is actively engaged in the day- to-day operations or activities of that Nasdaq Canada marketplace participant;

(ii) is an officer or an employee of CXCH or any of its affiliated entities;

(iii) is a partner, officer or employee of Nasdaq, Inc. or an associate of that partner, officer or employee;

(iv) is a director of Nasdaq or an associate of that director;

(v) is a person who owns or controls, or is the officer or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of CXCH;

(vi) is a director of a person or company that beneficially owns or controls, directly or indirectly, more than 5% of any class or series of voting shares of Nasdaq; or

(vii) has any relationship with Nasdaq or a person or company that owns or controls, directly or indirectly, more than 5% of the shares of CXCH, that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of CXCH or Nasdaq Canada.

(c) For the purposes of paragraph (b), the Nominating Committee may waive the restrictions set out in subparagraphs (b)(iv) and (b)(vi) provided that:

(i) the individual being considered does not have, and has not had, any relationship with Nasdaq, Inc. that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgement as a director of Nasdaq Canada or CXCH;

(ii) Nasdaq Canada publicly discloses the use of the waiver with reasons why the particular candidate was selected;

(iii) Nasdaq Canada provides advance notice to the Commission, at least 15 business days before the public disclosure in sub-paragraph (c)(ii) is made, and

(iv) the Commission does not object within 15 business days of its receipt of the notice provided under sub-paragraph (c)(iii) above.

2. **Public Interest Responsibilities**

(a) Nasdaq Canada shall conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the Board shall expressly include regulatory and public interest responsibilities of Nasdaq Canada.

3. **Share Ownership Restrictions**

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert shall beneficially own or exercise control or direction over more than 10% or more than 50% respectively of any class or series of voting shares of Nasdaq Canada.

(b) The articles of Nasdaq Canada shall contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

4. **Recognition Criteria**

Nasdaq Canada shall continue to meet the criteria for recognition set out in Schedule 1 to the Order.

5. **Fitness**

In order to ensure that Nasdaq Canada operates with integrity and in the public interest, Nasdaq Canada will take reasonable steps to ensure that each person or company that is a director or officer of Nasdaq Canada, is a fit and proper person and the past conduct of each person or company that is a director or officer of Nasdaq Canada affords reasonable grounds for belief that the business of Nasdaq Canada will be conducted with integrity. Each director and officer of Nasdaq Canada must be a fit and proper person.

6. **Board of Directors**

(a) Nasdaq Canada shall ensure that at least 50% of its Board members are independent.

(b) The Chair of the Board shall be independent.

(c) In the event that Nasdaq Canada fails to meet the requirement in paragraph (a) of this section, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure.

(d) Nasdaq Canada shall ensure that its Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, at least 50% of whom shall be independent directors.

7. **Regulatory Oversight Committee**

(a) Nasdaq Canada shall establish and maintain a Regulatory Oversight Committee that, at a minimum:

(i) is made up of at least three directors, a majority of whom shall be independent;

(ii) reviews and decides, or makes recommendations to the Board, on proposed regulations and rules that must be submitted to the Commission for review and approval under Schedule 5 *Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto* of this Order;

(iii) considers real or perceived conflicts of interest that may arise, including but not limited to the following contexts:

(A) ownership interests in CXCH by any Nasdaq Canada marketplace participant with representation on the Board of CXCH or the Board of Nasdaq Canada,

(B) significant changes in ownership of Nasdaq Canada and CXCH, and

(C) the profit-making objective and the public interest responsibilities of Nasdaq Canada, including general oversight of the management of the regulatory and public interest responsibilities of Nasdaq Canada.

(iv) oversees the establishment of mechanisms to avoid and appropriately manage conflicts of interest or potential conflicts of interest, perceived or real, including any policies and procedures that are developed by Nasdaq Canada and CXCH, including those that are required to be established pursuant to the Schedules of the Order;

(v) monitors the operation of mechanisms that deal with conflicts of interest, including oversight of reporting of conflicts of interest by Nasdaq Canada and CXCH;

(vi) reviews regularly, and at least annually, the effectiveness of the policies and procedures regarding conflicts of interest;

(vii) annually prepares a written report examining the avoidance and management of conflicts of interest, the mechanisms used and the effectiveness of those mechanisms and provides the report to the Board promptly, and to the Commission within 30 days of providing it to its Board;

(viii) reports in writing directly to the Commission on any matter that the Regulatory Oversight Committee deems appropriate or that is required by the Commission without first requiring Board approval for such reporting;

(ix) has a requirement that the quorum consist of a majority of the Regulatory Oversight Committee members, a majority of whom shall be independent.

(b) The mandate of the Regulatory Oversight Committee shall be publicly available on the website of Nasdaq Canada.

(c) The Regulatory Oversight Committee shall provide to the Commission meeting materials provided to the Regulatory Oversight Committee members in conjunction with each meeting, within 30 days after any meeting it held, and will include a list of the matters considered and a detailed summary of the Regulatory Oversight Committee's considerations, how those matters were addressed and any other information required by the Commission.

(d) The Regulatory Oversight Committee shall provide such information as may be required by the Commission from time to time.

8. **Conflicts of Interest and Confidentiality Procedures**

(a) Nasdaq Canada shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from the operation of the marketplace or the services it provides including, but not limited to, the following:

(A) conflicts of interest or potential conflicts of interest that arise from the involvement of any partner, director, officer or employee of a significant shareholder in the management or oversight of the exchange operations or regulation functions of Nasdaq Canada and the services or products it provides;

(B) conflicts of interest or potential conflicts of interest that arise from any interactions between Nasdaq Canada and a significant shareholder where Nasdaq Canada may be exercising discretion that involves or affects the significant shareholder either directly or indirectly, and

(C) conflicts of interest or potential conflicts of interest that arise between the regulation functions and the business activities of Nasdaq Canada; and

(ii) require that confidential information regarding marketplace operations, regulation functions, or a Nasdaq Canada marketplace participant that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of marketplace operations or regulation functions of Nasdaq Canada:

(A) be kept separate and confidential from the business or other operations of the significant shareholder and its affiliated entities, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to the significant shareholder or its affiliated entities.

(b) The policies established in accordance with paragraph 8(a) shall be made publicly available on the website of Nasdaq Canada.

(c) Nasdaq Canada shall regularly review compliance with the policies and procedures established in accordance with paragraph 8(a) and shall document each review, and any deficiencies, and how those deficiencies were remedied. A report detailing review(s) conducted shall be provided to the Commission on an annual basis.

9. **Access**

Nasdaq Canada's requirements shall provide access to the facilities of Nasdaq Canada only to properly registered investment dealers that are members of IIROC and satisfy reasonable access requirements established by Nasdaq Canada, except that Canadian "permitted clients" as such term is defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* shall have separate access to Nasdaq Fixed Income.

10. **Regulation of Nasdaq Canada Marketplace Participants**

(a) Nasdaq Canada shall establish, maintain and require compliance with policies and procedures that effectively monitor and enforce the Rules against Nasdaq Canada marketplace participants, either directly or indirectly through a regulation services provider.

(b) Nasdaq Canada has retained and shall continue to retain IIROC as a regulation services provider to provide, as agent for Nasdaq Canada, certain regulation services that have been approved by the Commission. Nasdaq Canada shall obtain approval of the Commission before amending the listed services provided by IIROC. Nasdaq Canada shall annually provide the Commission with a list of the regulation functions performed by Nasdaq Canada and the regulation functions performed by IIROC.

(c) Nasdaq Canada shall perform all other regulation functions not performed by IIROC, and shall maintain adequate staffing, systems and other resources in support of those functions. Nasdaq Canada shall obtain prior Commission approval before outsourcing such regulation functions to any party, including affiliated entities or associates of Nasdaq Canada.

(d) Nasdaq Canada shall notify the Commission of any violations of Ontario securities law of which it becomes aware in the ordinary course of its business or otherwise.

11. **Rules, Rulemaking and Form 21-101F1**

Nasdaq Canada shall comply with the process for review and approval of Rules and the information contained in Form 21-101F1 and the exhibits thereto, as set out in Schedule 5, as amended from time to time.

12. **Due Process**

(a) Nasdaq Canada shall ensure that the requirements of Nasdaq Canada relating to access to the trading facilities of Nasdaq Canada, the imposition of limitations or conditions on access, and denial of access are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of a record, the giving of reasons and the provisions of appeals.

13. **Fees, Fee Models And Incentives**

(a) Nasdaq Canada shall not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders that is conditional upon:

(A) the requirement to have Nasdaq Canada be set as the default or first marketplace a marketplace participant routes orders to, or

(B) the router of Nasdaq Canada being used as the marketplace participant's primary order router.

(b) Except with the prior approval of the Commission, Nasdaq Canada shall not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by Nasdaq Canada or Nasdaq or any affiliated entity, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies.

(c) Except with the prior approval of the Commission, Nasdaq Canada shall not require another person or company to purchase or otherwise obtain products or services from Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders as a condition of Nasdaq Canada supplying or continuing to supply a product or service.

(d) If the Commission considers that it would be in the public interest, the Commission may require Nasdaq Canada to submit for approval by the Commission a fee, fee model or incentive that has previously been filed with and/or approved by the Commission.

(e) Where the Commission decides not to approve the fee, fee model or incentive submitted under paragraph (d), any previous approval for the fee, fee model or incentive shall be revoked, if applicable, and Nasdaq Canada shall no longer be permitted to offer the fee, fee model or incentive.

(f) Any fee, fee model or incentive, or amendment thereto, shall be filed in accordance with the Rule and Form 21-101F1 Filing Protocol attached as Schedule 5.

14. **Order Routing**

Nasdaq Canada shall not support, encourage or incent, either through fee incentives or otherwise, Nasdaq Canada marketplace participants, Nasdaq affiliated entities or significant shareholders to coordinate the routing of their orders to Nasdaq Canada.

15. **Integration of Any Business or Corporate Functions**

Nasdaq Canada shall obtain the prior approval of the Commission before implementing any significant integration, combination or reorganization of any businesses, operations or corporate functions relating to trading, including marketplace operations, having an impact on the operations of, the services offered by, or the manner in which services are performed by, Nasdaq Canada or CXCH, between Nasdaq Canada and its affiliated entities.

16. **Financial Reporting**

(a) Within 90 days of its financial year end, Nasdaq Canada shall deliver to the Commission audited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial year.

(b) Within 60 days of each quarter end, Nasdaq Canada shall deliver to the Commission unaudited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial quarter.

(c) Nasdaq Canada shall deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

17. **Financial Viability Monitoring And Reporting**

(a) Nasdaq Canada shall calculate the following financial ratios monthly:

(i) a current ratio, being the ratio of current assets to current liabilities;

(ii) a debt to cash flow ratio, being the ratio of total debt (including any line of credit draw downs, and the current and long-term portions of any loans, but excluding accounts payable, accrued expenses and other liabilities) to EBITDA (earnings before interest, taxes, stock-based compensation, depreciation and amortization) for the most recent 12 months; and

(iii) a financial leverage ratio, being the ratio of total assets to shareholders' equity,

in each case following the same accounting principles as those used for the unaudited non-consolidated financial statements of Nasdaq Canada.

(b) Nasdaq Canada shall report quarterly in writing to the Commission, along with the financial statements required to be delivered pursuant to this Schedule, the monthly calculations for the previous quarter of the financial ratios as required to be calculated under paragraph (a).

(c) If Nasdaq Canada determines that it does not have, or anticipates that, in the next twelve months, it will not have:

(i) a current ratio of greater than or equal to 1.1/1,

(ii) a debt to cash flow ratio of less than or equal to 4.0/1, or

(iii) a financial leverage ratio of less than or equal to 4.0/1,

it will immediately notify Commission staff of the above ratio(s) that it is not maintaining, the reasons, along with an estimate of the length of time before the ratio(s) will be met.

(d) Upon receipt of a notification made by Nasdaq Canada under paragraph (c), the Commission may, as determined appropriate, impose any of the terms and conditions set out in paragraph (e) below.

(e) If Nasdaq Canada's current ratio, debt to cash flow ratio or financial leverage ratio falls below the levels outlined in subparagraphs 17(c)(i), 177 (c)(ii) and 17(c)(iii) above for a period of more than three months, Nasdaq Canada will:

(i) immediately deliver a letter advising the Commission staff of the reasons for the continued ratio deficiencies and the steps being taken to rectify the situation;

(ii) deliver to Commission staff, on a monthly basis, within 30 days of the end of each month:

(A) unaudited monthly financial statements and a status update on any pending capital raising transaction(s) including the amount, terms and name(s) of individuals/entities that have committed to providing funding and their commitment,

(B) a comparison of the monthly revenues and expenses incurred by Nasdaq Canada against the projected monthly revenues and expenses included in Nasdaq Canada's most recently updated budget for that fiscal year,

(C) for each revenue item whose actual amount was significantly lower than its projected amount, and for each expense item whose actual amount was significantly higher than its projected amount, the reasons for the variance, and

(D) a calculation of the current ratio, debt to cash flow ratio and financial leverage ratio for the month;

(iii) prior to making any type of payment to any director, officer, affiliated entity or shareholder that is in excess of the amount included in the most recent annual financial budget delivered to Commission staff, demonstrate to the satisfaction of the Commission staff that it will have sufficient financial resources to continue its operations after the payment; and

(iv) adhere to any additional terms and conditions imposed by the Commission or its staff, as determined appropriate, on Nasdaq Canada,

until such time as Nasdaq Canada has maintained each of its current ratio, debt to cash flow ratio and financial leverage ratio at the levels set out in subparagraphs 17(c)(i), 17(c)(ii) and 17(c)(iii) for a period of at least 6 consecutive months.

18. **Outsourcing**

Nasdaq Canada shall obtain prior Commission approval before entering into or amending any outsourcing arrangements related to any of its key services or systems with a service provider, which includes affiliated entities or associates of CXCH and Nasdaq. This approval is not required with respect to housekeeping changes to an outsourcing agreement as defined in Schedule 5.

19. **Additional Information**

(a) Nasdaq Canada shall provide the Commission with:

(i) the information set out in Appendix A to this Schedule, as amended from time to time; and

(ii) any information required to be provided by Nasdaq Canada to IIROC, including all order and trade information, as required by the Commission.

20. **Compliance**

Nasdaq Canada shall carry out its activities as an exchange recognized under section 21 of the Act and in compliance with Ontario securities law.

21. **Provision Of Information**

(a) Nasdaq Canada shall, and shall cause its affiliated entities, to promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control of Nasdaq Canada or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

(i) data, information and analyses relating to all of its or their businesses; and

(ii) data, information and analyses of third parties in its or their custody or control.

(b) Nasdaq Canada shall share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

22. **Compliance With Terms And Conditions**

(a) Nasdaq Canada shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance;

(iii) the names and titles of employees who have oversight of compliance.

(b) If Nasdaq Canada or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to Nasdaq Canada under the Schedules to the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Regulatory Oversight Committee of the breach or possible breach. The director, officer or employee of the recognized exchange shall provide to the Regulatory Oversight Committee details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Regulatory Oversight Committee shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 22(d).

(d) The Regulatory Oversight Committee shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 22(b). Once the Regulatory Oversight Committee has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Nasdaq Canada under the Schedules to the Order, the Regulatory Oversight Committee shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

23. **Listings**

Except with the prior approval of the Commission, no securities shall be listed on Nasdaq Canada.

APPENDIX A

ADDITIONAL REPORTING OBLIGATIONS

1. **Ad Hoc**

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory organization, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, data subscription agreements, etc.), or (v) relates to a business line other than exchange services.

(b) Any plans by Nasdaq Canada to enter into new businesses (directly or indirectly, including joint ventures) or to cease existing businesses, promptly after the Board has made the decision to implement those plans.

(c) Immediate notification of:

(i) the appointment of any new director or officer of Nasdaq Canada, including a description of the individual's employment history; and

(ii) the receipt of notice of resignation from, or the resignation of, a director or officer or the auditor of Nasdaq Canada, including a statement of the reasons for the resignation.

(d) Any minutes of the meetings of Board and Board committees of Nasdaq Canada, promptly after their approval.

(e) Immediate notification if Nasdaq Canada:

(i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

(ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

(iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(f) Any strategic plan for Nasdaq Canada, within 30 days of approval by the Board.

(g) Any filings made by Nasdaq Canada with a Canadian securities regulatory authority pursuant to a recognition order, exemption order or NI 21-101, filed concurrently.

(h) Copies of all notices, bulletins and similar forms of communication that Nasdaq Canada sends to the Nasdaq Canada marketplace participants.

(i) Prompt notification of any application for exemption or waiver from Nasdaq Canada requirements received from a significant shareholder or any of its affiliated entities.

2. **Quarterly Reporting**

(a) A list of the internal audit reports and risk management reports issued in the previous quarter that relate to the operations and business of Nasdaq Canada, if such reports are produced.

(b) A quarterly report summarizing all exemptions or waivers granted during the period pursuant to the Rules to any Nasdaq Canada marketplace participant, which shall include the following information:

(i) the name of the Nasdaq Canada marketplace participant;

(ii) the type of exemption or waiver granted during the period;

(iii) the date of the exemption or waiver; and

(iv) a description of the recognized exchange's reason for the decision to grant the exemption or waiver.

(c) A quarterly report summarizing instances where conflicts of interest or potential conflicts of interest with respect to Competitors have been identified by Nasdaq Canada and how such conflicts were addressed.

3. **Annual Reporting**

At least annually, an assessment of the risks, including business risks, facing Nasdaq Canada and the plan for addressing such risks.

SCHEDULE 3

TERMS AND CONDITIONS APPLICABLE TO CXCH

24. **Definitions and Interpretation**

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2. In addition:

25. **Public Interest Responsibilities**

(a) CXCH shall conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the Board shall expressly include CXCH's regulatory and public interest responsibilities.

26. **Share Ownership Restrictions**

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert shall beneficially own or exercise control or direction over more than 10% or more than 50% respectively of any class or series of voting shares of CXCH.

(b) The articles of CXCH shall contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

27. **Recognition Criteria**

CXCH shall continue to meet the criteria for recognition set out in Schedule 1 to the Order.

28. **Fitness**

In order to ensure that CXCH and Nasdaq Canada operate with integrity and in the public interest, CXCH will take reasonable steps to ensure that each person or company that is a director or officer of CXCH is a fit and proper person and the past conduct of each person or company that is a director or officer of CXCH affords reasonable grounds for belief that the business of CXCH and Nasdaq Canada will be conducted with integrity. Each director and officer of CXCH must be a fit and proper person.

29. **Board of Directors**

(a) CXCH shall ensure that at least 50% of its Board members are independent.

(b) The Chair of the Board shall be independent.

(c) In the event that CXCH fails to meet the requirement in paragraph (a) of this section, it shall immediately advise the Commission and take appropriate measures to remedy such failure.

(d) CXCH shall ensure that its Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, at least 50% of whom shall be independent.

30. **Nominating Committee**

CXCH shall maintain a Nominating Committee that, at a minimum:

(a) is made up of at least three directors, a majority of whom shall be independent, and has an independent Chair;

(b) confirms the status of a nominee to the Board as independent before the name of the individual is submitted to shareholders as a nominee for election to the Board;

(c) confirms, on an annual basis, that the status of the directors that are independent has not changed;

(d) assesses and approves all nominees of management to the Board; and

(e) has a requirement that the quorum consist of a majority of the Nominating Committee members, a majority of whom shall be independent.

31. **Conflicts of Interest and Confidentiality Procedures**

(a) CXCH shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, perceived or real, arising from its ownership interest in Nasdaq Canada, and

(ii) require that confidential information regarding marketplace operations, regulation functions, or a Nasdaq Canada marketplace participant that is obtained by a partner, director, officer or employee of CXCH or Nasdaq through that individual's involvement in the management or oversight of the marketplace operations or regulation functions of Nasdaq Canada:

(A) be kept separate and confidential from the business or other operations of the partner, director, officer or employee of CXCH or Nasdaq, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to the partner, director, officer or employee of CXCH or Nasdaq or Nasdaq's affiliated entities,

provided that nothing in this section 31(a)(ii) shall be construed to limit CXCH or Nasdaq Canada from providing to Nasdaq necessary information. CXCH shall cause Nasdaq Canada to mandate that each Nasdaq Canada dealer and affiliated entity of a Nasdaq Canada dealer carrying on a securities business in Canada in reliance on a securities registration or exemption therefrom disclose its relationship with Nasdaq Canada to clients whose orders might be, and clients whose orders have been, routed to Nasdaq Canada.

(b) CXCH shall regularly review compliance with the policies and procedures established in accordance with section 31(a) and shall document each review and any deficiencies and how those deficiencies were remedied. A report detailing the review(s) conducted shall be provided to the Commission on an annual basis.

(c) The policies established in accordance with section 31(a) shall be made publicly available on the website of CXCH or Nasdaq Canada.

32. **Allocation of Resources**

(a) CXCH shall, for so long as Nasdaq Canada carries on business as an exchange, allocate sufficient financial and other resources to Nasdaq Canada to ensure that Nasdaq Canada can carry out its functions in a manner that is consistent with the public interest and in compliance with Ontario securities law.

(b) CXCH shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial and other resources, as required under paragraph (a), to Nasdaq Canada.

33. **Fees, Fee Models and Incentives**

(a) CXCH shall ensure that its affiliated entities, including Nasdaq Canada, do not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person, significant shareholder or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by the affiliated entity; or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies,

unless prior approval has been granted by the Commission.

(b) CXCH shall ensure that Nasdaq Canada does not require a person or company to purchase or otherwise obtain products or services from Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders as a condition of Nasdaq Canada supplying or continuing to supply a product or service unless prior approval has been granted by the Commission.

(c) CXCH shall ensure that Nasdaq Canada or Nasdaq and its affiliated entities and significant shareholders do not require another person, significant shareholder or company to obtain products or services from Nasdaq Canada as a condition of the affiliated entity supplying or continuing to supply a product or service.

34. **Order Routing**

CXCH shall not support, encourage or incent, either through fee incentives or otherwise, Nasdaq Canada marketplace participants, Nasdaq affiliated entities or significant shareholders to coordinate the routing of their order to Nasdaq Canada.

35. **Integration of Any Business or Corporate Functions**

CXCH shall obtain the prior approval of the Commission before implementing any significant integration, combination or reorganization of any businesses, operations or corporate functions relating to trading, including marketplace operations, having an impact on the operations of, the services offered by, or the manner in which services are performed by, Nasdaq Canada or CXCH, between CXCH and its affiliated entities.

36. **Financial Reporting**

(a) Within 90 days of its financial year end, CXCH shall deliver to the Commission audited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial year.

(b) Within 60 days of each quarter end, CXCH shall deliver to the Commission unaudited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial quarter.

(c) CXCH shall deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

37. **Prior Commission Approval**

CXCH shall obtain prior Commission approval of any changes to any agreement between CXCH and its significant shareholders.

38. **Reporting Requirements**

CXCH shall provide the Commission with the information set out in Appendix B to this Schedule, as amended from time to time.

39. **Compliance With Terms and Conditions**

(a) CXCH shall certify in writing to the Commission, in a certificate signed by its CEO and either its Chairman of the Board, general counsel or chief compliance officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance; and

(iii) the names and titles of employees who have oversight of compliance.

(b) If CXCH or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to CXCH under the Schedules to the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Board or committee designated by the Board and approved by the Commission of the breach or possible breach. The director, officer or employee of the recognized exchange shall provide to the Board or committee designated by the Board details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Board or committee designated by the Board shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 39(d).

(d) The Board or committee designated by the Board shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 39(b). Once the Board or committee designated by the Board has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to CXCH under the Schedules to the Order, the Board or committee designated by the Board shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

APPENDIX B

ADDITIONAL REPORTING OBLIGATIONS

1. **Ad Hoc**

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory organization, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, data subscription agreements, etc.), or (v) relates to a business line other than exchange services.

(b) Any plans by CXCH to enter into new businesses (directly or indirectly, including joint ventures) or to cease existing businesses, promptly after the Board has made the decision to implement those plans.

(c) Immediate notification of:

(i) the appointment of any new director or officer of CXCH, including a description of the individual's employment history; and

(ii) the receipt of notice of resignation from, or the resignation of, a director or officer or the auditor of CXCH, including a statement of the reasons for the resignation.

(d) Any minutes of the meetings of Board and Board committees of CXCH, promptly after their approval.

(e) Immediate notification if CXCH:

(i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

(ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

(iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(f) Immediate notification if Nasdaq becomes, or it is notified in writing that it will become, the subject of a criminal, administrative or regulatory proceeding.

(g) Any strategic plan for CXCH, within 30 days of approval by the Board.

(h) Any filings made by CXCH with a Canadian securities regulatory authority pursuant to a recognition order, exemption order or NI 21-101, filed concurrently.

2. **Quarterly Reporting**

A list of the internal audit reports and risk management reports issued in the previous quarter that relate to the operations and business of CXCH and Nasdaq Canada, if such reports are produced.

3. **Annual Reporting**

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing CXCH and Nasdaq Canada and the plan for addressing such risks.

SCHEDULE 4

TERMS AND CONDITIONS APPLICABLE TO NASDAQ AND SIGNIFICANT SHAREHOLDERS

40. **Definitions and Interpretation**

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2.

41. **Public Interest Responsibilities**

Nasdaq shall ensure that Nasdaq Canada and CXCH conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

42. **Fitness**

Nasdaq shall take reasonable steps to ensure that each director and officer of Nasdaq Canada and CXCH is a fit and proper person. As part of those steps, Nasdaq shall consider whether the past conduct of each director or officer affords reasonable grounds for belief that the business of Nasdaq Canada and CXCH will be conducted with integrity and in a manner that is consistent with the public interest responsibilities of Nasdaq Canada and CXCH.

43. **Conflicts of Interest and Confidentiality Procedures**

(a) Nasdaq shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from the involvement of a nominee of Nasdaq or a significant shareholder of Nasdaq on the Board of CXCH or Nasdaq Canada in the management or oversight of the marketplace operations or regulation functions of Nasdaq Canada, and

(ii) require that confidential information regarding marketplace operations or regulation functions, or regarding a Nasdaq Canada marketplace participant that is obtained by such nominee on the Board of Nasdaq Canada or CXCH:

(A) be kept separate and confidential from the business or other operations of such significant shareholder, except with respect to where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of exchange operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to Nasdaq, its significant shareholder or affiliated entities,

provided that nothing in this section 43(a)(ii) shall be construed to limit CXCH or Nasdaq Canada from providing to Nasdaq necessary information.

(b) Nasdaq shall establish, maintain and require compliance, or ensure that its affiliated entities that are dealers, if any, establish, maintain or require compliance with policies and procedures that identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from its ownership interest in CXCH, and indirectly in Nasdaq Canada, including, but not limited to, conflicts of interest or potential conflicts of interest that arise from any interactions between either of Nasdaq Canada and Nasdaq, Nasdaq Canada or significant shareholders or between Nasdaq Canada and the affiliated entities of Nasdaq that are dealer where Nasdaq Canada may be exercising discretion in the application of its Rules that involves or affects Nasdaq or its affiliated entities either directly and indirectly.

(c) Nasdaq shall regularly review compliance with the policies and procedures established in accordance with paragraphs (a) and (b), as applicable, and shall document each review of compliance.

44. **Allocation of Resources**

(a) To ensure Nasdaq Canada and CXCH can carry out their functions in a manner that is consistent with the public interest and in compliance with Ontario securities law, Nasdaq shall, for so long as Nasdaq Canada and CXCH carry on business as exchanges, facilitate the allocation of sufficient financial and non-financial resources for the operations of these exchanges.

(b) Nasdaq shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial or other resources to Nasdaq Canada or CXCH, as required under paragraph (a).

45. **Routing and Other Operational Decisions**

(a) Nasdaq shall not enter into, and shall not cause any of its affiliated entities that are dealers to enter into, any arrangements, undertakings, commitments, understandings or agreements with CXCH, Nasdaq Canada, or any marketplace participant with respect to coordination of the routing of orders to Nasdaq Canada except with respect to activities that are permitted by the requirements of Nasdaq Canada or IIROC.

(b) Each significant shareholder shall not enter into, and shall not cause any of its affiliated entities that are dealers to enter into, any arrangements, undertakings, commitments, understandings or agreements with Nasdaq, CXCH, Nasdaq Canada or any marketplace participant with respect to coordination of the routing of orders to Nasdaq Canada, except with respect to activities that are permitted by the requirements of Nasdaq Canada or IIROC.

(c) For greater certainty, paragraph (a) is not intended to prohibit any temporary agreements or coordination between Nasdaq or affiliated entities of Nasdaq that is a dealer and any other shareholder or affiliated entities of a shareholder that is a dealer or any other person in the event of any failure, malfunction or material delay of the systems or equipment of a marketplace if and to the extent reasonably necessary to protect the integrity and liquidity of capital markets, provided that prior notice of the temporary agreement or coordination is provided to the Commission.

(d) Nasdaq shall not cause any of its affiliated entities to offer or pay any benefit, financial or otherwise to its traders that would incent such traders to direct their orders to Nasdaq Canada in preference to any other marketplace.

(e) No significant shareholder shall cause any of its affiliated entities to offer or pay any benefit, financial or otherwise, to its traders, if applicable, that would incent such traders to direct their orders to Nasdaq Canada in preference to any other marketplace.

(f) Significant shareholders shall provide a written directive to their traders, if applicable, that they shall not cause routing decisions to be made based on Nasdaq's ownership interest in CXCH and Nasdaq Canada.

46. **Disclosure To Clients**

(a) A significant shareholder shall ensure that any affiliated entity that is a Nasdaq Canada marketplace participant shall disclose its relationship with Nasdaq Canada and CXCH and its affiliated entities to clients whose orders might be, and clients whose orders have been, routed to Nasdaq Canada.

47. **Conditional Provision of Products or Services**

(a) A Nasdaq Canada dealer shall not require another person or company to obtain products or services from Nasdaq Canada or any of its affiliated entities as a condition of the Nasdaq Canada dealer supplying or continuing to supply a product or service.

(b) Nasdaq shall not cause its dealer affiliated entities to require another person or company to obtain products or services from Nasdaq Canada or any of its affiliated entities as a condition of the significant shareholder supplying or continuing to supply a product or service.

48. Notification of New Dealer Affiliated Entities

Nasdaq shall promptly notify the Commission if it creates or acquires an affiliated entity that is a dealer.

49. Provision of Information

Nasdaq shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Nasdaq Canada or CXCH without limitations, redactions, restrictions, or conditions.

50. Reporting Requirements

Nasdaq shall provide the Commission with the information set out in Appendix C to this Schedule, as amended from time to time.

51. Certifications

(a) Nasdaq shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within ten days of the date that is one year from the effective date of the recognition of CXCH

and Nasdaq Canada as exchanges pursuant to this Order and every year subsequent to that date, or at other times required by the Commission, that Nasdaq is in compliance with the terms and conditions applicable to it in this Schedule and describe the steps taken to require compliance.

(b) Nasdaq shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within ten days of the date that is one year from the effective date of the recognition of CXCH and Nasdaq Canada as exchanges pursuant to this Order and every year subsequent to that date, or at other times required by the Commission, that:

(i) Nasdaq is not acting jointly or in concert with any other significant shareholder, or any affiliated entity or associated thereof, with respect to any voting shares of CXCH;

(ii) despite subparagraph (b)(i), Nasdaq may act jointly or in concert with any other shareholders under arrangements to nominate a director to the board of CXCH or Nasdaq Canada;

(iii) Nasdaq has no agreement, commitment or understanding, written or otherwise, with any other significant shareholder, or any affiliated entity or associate thereof, with respect to the acquisition or disposition of voting shares of CXCH, the exercise of any voting rights attached to any voting shares of CXCH or the coordination of decisions or voting by its nominee director of CXCH (if any) with the decisions or voting by the nominee of any other significant shareholder, other than what is included in the CXCH shareholders' agreement; and

(iv) since the last certification, Nasdaq has not acted jointly or in concert with any other significant shareholder, or any affiliated entity or associate thereof, with respect to any voting shares of CXCH, including with respect to the acquisition or disposition of any voting shares of CXCH or the exercise of any voting rights attached to any voting shares of CXCH.

52. **Compliance with Terms and Conditions**

(a) If Nasdaq or its partners, officers, directors or employees becomes aware that there has been a breach or possible breach of any of the terms and conditions applicable to it under this schedule of the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Designated Recipient (as defined below) of the breach or possible breach. The partner, director, officer or employee of Nasdaq shall provide to the Designated Recipient details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(b) "Designated Recipient" means the person or body that Nasdaq designates as having the responsibilities described in this section, which may be its Board, audit committee, governance committee (or chairperson of any of the foregoing), General Counsel, Chief Compliance Officer, an ombudsperson specifically designated by Nasdaq to review compliance with corporate policies under Nasdaq's established whistle-blowing procedures, or, with the approval of the Commission, such other person or committee designated by Nasdaq .

(c) The Designated Recipient shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 53(d).

(d) The Designated Recipient shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 53(a). Once the Designated Recipient has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Nasdaq under the Schedules to the Order, the Designated Recipient shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

53. **Expiry of Terms and Conditions**

The obligations of Nasdaq to comply with the terms and conditions of this Schedule expire on the later of:

(a) the date on which, for a consecutive six month period, Nasdaq owns less than 10% of the number of voting shares of CXCH that it had beneficially owned or exercised control or direction over at the launch of the recognized exchange, and

(b) the date on which the nominee or partner, officer, director or employee of Nasdaq has ceased to be a director on the board of CXCH or Nasdaq Canada.

APPENDIX C

ADDITIONAL REPORTING OBLIGATIONS

1. **Ad Hoc**

(a) Any strategic plan for Nasdaq in respect of the operations of Nasdaq Canada or CXCH, within 30 days of approval by the Board.

SCHEDULE 5

PROCESS FOR THE REVIEW AND APPROVAL OF RULES AND THE INFORMATION CONTAINED IN FORM 21-101F1 AND THE EXHIBITS THERETO

1. **Purpose**

This Protocol sets out the procedures a recognized exchange (Exchange) must follow for any Rule or Change, both as defined in section 2 below, and describes the procedures for their review by Commission Staff (Staff) and approval by the Commission or the Director.

2. **Definitions**

For the purposes of this Protocol:

(a) *Change* means a Fee Change, a Housekeeping Change or a Significant Change.

(b) *Fee Change* means any new fee or fee model of the Exchange and any amendment to a fee or fee model.

(c) *Housekeeping Change* means an amendment to the information in Form 21-101F1 that

(i) does not have an impact on the Exchange's market structure, members, issuers, investors or the capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(d) *Housekeeping Rule* means a new Rule or an amendment to a Rule that

(i) does not have an impact on the Exchange's market structure, members, issuers, investors or the capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(e) *Public Interest Rule* means a Rule or an amendment to a Rule that is not a Housekeeping Rule.

(f) *Rule* includes a rule, policy and other similar instrument of the Exchange.

(g) *Significant Change* means an amendment to the information in Form 21-101F1 other than

(i) a Housekeeping Change,

(ii) a Fee Change, or

(iii) a Rule,

and for greater certainty includes the matters listed in subsection 6.1(4) of Companion Policy 21-101 CP.

(h) *Significant Change subject to Public Comment* means a Significant Change that

(i) is listed in paragraphs 6.1(4)(a), (b), (c) or (d) of Companion Policy 21-101 CP, or

(ii) in Staff's view, has an impact on the Exchange's market structure or members, or on issuers, investors or the capital markets or otherwise raises public interest concerns and should be subject to public comment.

3. **Scope**

(a) The Exchange and Staff will follow the process for review and approval set out in this Protocol for all Changes, new Rules and Rule amendments.

4. **Board Approval**

(a) The Exchange's board of directors, or a duly authorized committee of the board, must approve all Rules prior to their submission under this Protocol.

5. **Waiving or Varying the Protocol**

(a) The Exchange may file a written request with Staff to waive or vary any part of this Protocol. The request must provide reasons why granting the waiver is appropriate in the circumstances.

(b) Staff will use their best efforts to provide to the Exchange within five business days of receipt of its request either:

(i) written notice that Staff object to granting the waiver or variation; or

(ii) written notice that the waiver or variation has been granted by Staff.

6. **Materials to be Filed and Timelines**

(a) Prior to the implementation of a Fee Change, Public Interest Rule or Significant Change, the Exchange will file with Staff the following materials:

(i) a cover letter that, together with the notice for publication filed under paragraph 6(a)(ii), if applicable, fully describes:

(A) the proposed Fee Change, Public Interest Rule or Significant Change;

(B) the expected date of implementation of the proposed Fee Change, Public Interest Rule or Significant Change;

(C) the rationale for the proposal and any relevant supporting analysis;

(D) the expected impact of the proposed Fee Change, Public Interest Rule or Significant Change on the market structure, members and, if applicable, on investors, issuers and the capital markets;

(E) whether a proposed Public Interest Rule or Significant Change would increase or decrease systemic risk in the Canadian financial system and how any increase would be mitigated, if applicable;

(F) a discussion of the expected impact of the Fee Change, Public Interest Rule or Significant Change on the Exchange's compliance with Ontario securities law and in particular on requirements for fair access and maintenance of fair and orderly markets;

(G) details of any consultations undertaken in formulating the Fee Change, Public Interest Rule or Significant Change, including the internal governance process followed to approve the Rule or Change;

(H) if the Public Interest Rule or Significant Change will require members and service vendors to modify their own systems after implementation of the Rule or Change, a reasonable estimate of the amount of time needed to perform the necessary work, or an explanation as to why a reasonable estimate was not provided;

(I) a discussion of any alternatives considered; and

(J) if applicable, whether the proposed Fee Change, Significant Change or Public Interest Rule would introduce a fee model, feature or Rule that currently exists in other markets or jurisdictions;

(ii) for a proposed Public Interest Rule or Significant Change subject to Public Comment, a notice for publication that includes the information required under paragraph 6(a)(i) above, except that the following may be excluded from the notice:

(A) supporting analysis required under subparagraph 6(a)(i)(C) above that, if included in the notice, would result in the public disclosure of intimate financial, commercial or technical information;

(B) the information on systemic risk required under subparagraph 6(a)(i)(E) above;

(C) the information on the internal governance processes followed required under subparagraph 6(a)(i)(G) above;

(D) the reasonable estimate of time needed for members and service vendors to modify their own systems, or the explanation as to why a reasonable estimate was not provided, required under subparagraph 6(a)(i)(H), so long as the notice for publication contains a statement that the Exchange did not or could not make a reasonable estimate; and

(E) the discussion of alternatives required under subparagraph 6(a)(i)(I) above.

(iii) for a proposed Public Interest Rule, the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules, and if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) for a proposed Fee Change or Significant Change, blacklined and clean copies of Form 21-101F1 showing the proposed Change.

(b) The Exchange will file the materials set out in subsection 6(a)

(i) at least 45 days prior to the expected implementation date of a proposed Public Interest Rule or Significant Change; and

(ii) at least seven business days prior to the expected implementation date of a proposed Fee Change.

(c) For a Housekeeping Rule, the Exchange will file with Staff the following materials:

(i) a cover letter that fully describes the Rule and indicates that it was classified as a Housekeeping Rule and provides an analysis of the rationale for the classification, and the date or proposed date of implementation of the Rule;

(ii) the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules;

(iii) if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) a notice for publication on the OSC website and in the OSC Bulletin that contains the information in paragraph (ii) above as well as the implementation date for the Rule, and indicates that the Rule has been classified as a Housekeeping Rule and was not published for comment.

(d) For a Housekeeping Change, the Exchange will file with Staff the following materials:

(i) a cover letter that indicates that the Change was classified as a Housekeeping Change and provides an analysis of the rationale for the classification and the expected or actual date of implementation of the Change; and

(ii) blacklined and clean copies of Form 21-101F1 showing the Change.

(e) The Exchange will file the materials set out in subsection 6(d) by the earlier of

(i) the Exchange's close of business on the 10th calendar day after the end of the month in which the Housekeeping Change was implemented; and

(ii) the date on which the Exchange publicly announces a Housekeeping Change, if applicable.

7. **Review by Staff of notice and materials to be published for comment**

(a) Within 5 business days of the receipt of the notice and materials filed by the Exchange relating to a Public Interest Rule or Significant Change subject to Public Comment in accordance with subsection 6(a), Staff will review the notice and materials to ensure that they contain an adequate level of detail, analysis and discussion to elicit meaningful public comment, and will promptly notify the Exchange of any deficiency requiring a re-filing of the notice and materials.

(b) Where the notice and materials are considered by Staff to be deficient, the Exchange will amend and resubmit the notice and materials accordingly, and the date of resubmission will serve as the filing date for the purposes of this Protocol.

(c) Where the notice and materials are considered by Staff to be adequate for publication, Staff will proceed with the processes set out in section 8.

8. **Publication of a Public Interest Rule or Significant Change Subject to Public Comment**

(a) As soon as practicable after the receipt of the notice and materials filed by the Exchange relating to a Public Interest Rule or Significant Change subject to Public Comment in accordance with subsection 6(a), Staff will publish in the OSC Bulletin and on the OSC website the notice prepared by the Exchange, along with a notice prepared by Staff, if necessary, that provides market participants with an opportunity to provide comments to Staff and to the Exchange within 30 days from the date the notice appears in the OSC Bulletin or on the OSC website, whichever comes first.

(b) If public comments are received

(i) the Exchange will forward copies of the comments promptly to Staff; and

(ii) the Exchange will prepare a summary of the public comments and a response to those comments and provide them to Staff promptly after the end of the comment period.

9. **Review and Approval Process for Proposed Fee Changes, Public Interest Rules and Significant Changes**

(a) Staff will use their best efforts to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change within

(i) 45 days from the date of filing of a proposed Public Interest Rule or Significant Change; and

(ii) seven business days from the date of filing of a proposed Fee Change.

(b) Staff will notify the Exchange if they anticipate that their review of the proposed Fee Change, Public Interest Rule or Significant Change will exceed the timelines in subsection 9(a).

(c) If Staff have material comments or require additional information to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change, Staff will use best efforts to provide the Exchange with a comment letter promptly by the end of the public comment period for a Public Interest Rule or Significant Change subject to Public Comment, and promptly after the receipt of the materials filed under section 6 for all other Changes.

(d) The Exchange will respond to any comments received from Staff in writing.

(e) Unless Staff agree to an extension of time, if the Exchange fails to respond to Staff's comments within 120 days after the receipt of Staff's comment letter, the Exchange will be deemed to have withdrawn the proposed Fee Change, Public Interest Rule or Significant Change. If the Exchange wishes to proceed with the Fee Change, Public Interest Rule or Significant Change after it has been deemed withdrawn, the Exchange will have to be re-submit it for review and approval in accordance with this Protocol.

(f) Upon completion of Staff's review of a Fee Change, Public Interest Rule or Significant Change, Staff will submit the Change or Rule to the Director or, in the circumstances described in subsection 9(g), to the Commission, for a decision within the following timelines:

(i) for a Public Interest Rule or a Significant Change subject to Public Comment, the later of 45 days from the date that the related materials were published for comment and the date that Staff's comments and public comments, including any concerns identified, have been adequately addressed by the Exchange;

(ii) for any other Significant Change, the later of 45 days from the date of filing of the Change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange; or

(iii) for a Fee Change, the later of seven business days from the date of filing of the change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange.

(g) A Fee Change, Public Interest Rule or Significant Change may be submitted to the Commission for a decision, within the timelines in subsection 9(f),

(i) if the proposed Fee Change, Public Interest Rule or Significant Change is complex or introduces a novel feature to the Exchange or the capital markets;

(ii) if comments received through the public comment process raise significant public interest concerns; or

(iii) in any other situation where, in Staff's view, Commission approval is appropriate.

(h) Staff will promptly notify the Exchange of the decision.

(i) If a Public Interest Rule or Significant Change subject to Public Comment is approved, Staff will publish the following documents in the OSC Bulletin and on the OSC website promptly after the approval:

(i) a notice indicating that the proposed Rule or Change is approved;

(ii) the summary of public comments and responses prepared by the Exchange, if applicable; and

(iii) if non-material changes were made to the version published for public comment, a brief description of these changes prepared by the Exchange and a blacklined copy of the revised Rule or Change highlighting the revisions made.

10. **Review Criteria for a Fee Change, Public Interest Rule and Significant Change**

(a) Staff will review a proposed Fee Change, Public Interest Rule or Significant Change in order to assess whether it is in the public interest for the Director or the Commission to approve the Rule or Change. In making this determination, Staff will have regard to the mandate of the Commission as set out section 1.1 of the Securities Act (Ontario). The factors that Staff will consider in making their determination also include whether:

(i) the Rule or Change would impact the Exchange's compliance with Ontario securities law;

(ii) the Exchange followed its established internal governance practices in approving the proposed Rule or Change;

(iii) the Exchange followed the requirements of this Protocol and has provided sufficient analysis of the nature, purpose and effect of the Rule or Change; and

(iv) the Exchange adequately addressed any comments received.

11. **Effective Date of a Fee Change, Public Interest Rule or Significant Change**

(a) A Fee Change, Public Interest Rule or Significant Change will be effective on the later of:

(i) the date that the Exchange is notified that the Change or Rule is approved;

(ii) if applicable, the date of publication of the notice of approval on the OSC website; and

(iii) the date designated by the Exchange.

12. **Significant Revisions and Republication**

(a) If, subsequent to its publication for comment, the Exchange revises a Public Interest Rule or a Significant Change subject to Public Comment in a manner that results in a material change to the proposed substance or effect of the Rule or Change, Staff will, in consultation with the Exchange, determine whether or not the revised Rule or Change should be published for an additional 30-day comment period.

(b) If a Public Interest Rule or Significant Change subject to Public Comment is republished under subsection 12(a), the request for comments will include a blacklined version marked to the originally published version, a summary of comments and responses prepared by the Exchange, and an explanation of the revisions and the supporting rationale for the revisions.

13. **Withdrawal of a Fee Change, Public Interest Rule or Significant Change**

(a) If the Exchange withdraws a Fee Change, Public Interest Rule or a Significant Change that was previously submitted, it will provide a written notice of withdrawal to Staff.

(b) If the notice of withdrawal relates to a Public Interest Rule or Significant Change subject to Public Comment, Staff will publish the notice of withdrawal in the OSC Bulletin and OSC website as soon as practicable.

(c) If a Public Interest Rule or Significant Change subject to Public Comment is deemed to have been withdrawn as provided in subsection 9(e), Staff will prepare and publish a notice informing market participants that the Exchange did not proceed with the Rule or Change.

14. **Effective Date of a Housekeeping Rule or Housekeeping Change**

(a) Subject to subsections 14(c) and 14(d), a Housekeeping Rule will be effective on the later of

(i) the date of the publication of the notice to be published on the OSC website in accordance with subsection 14(e), and

(ii) the date designated by the Exchange.

(b) Subject to subsections 14(c) and 14(d), a Housekeeping Change will be effective on the date designated by the Exchange.

(c) Staff will review the materials filed by the Exchange for a Housekeeping Change or Housekeeping Rule to assess the appropriateness of the categorization of the Rule or Change as housekeeping within five business days from the date that the Exchange filed the documents in accordance with subsections 6(c) and 6(d). The Exchange will be notified in writing if there is disagreement with respect to the categorization of the Rule or Change as housekeeping.

(d) If Staff disagree with the categorization of the Rule or Change as housekeeping, the Exchange will immediately repeal the Change, if applicable, file the proposed Rule as a Public Interest Rule or the proposed Change as a Significant Change, and follow the review and approval processes described in this Protocol as applying to a Public Interest Rule or Significant Change, including those processes applicable to a Significant Change subject to Public Comment if applicable.

(e) If Staff do not disagree with the categorization of the Rule, Staff will publish a notice to that effect in the OSC Bulletin and on the OSC website as soon as is practicable.

15. Immediate Implementation of a Public Interest Rule or Significant Change

(a) The Exchange may need to make a Public Interest Rule or Significant Change effective immediately where the Exchange determines that there is an urgent need to implement the Rule or Change to maintain fair and orderly markets, or because of a substantial and imminent risk of material harm to the Exchange, its members, other market participants, issuers or investors.

(b) When the Exchange determines that immediate implementation is necessary, it will advise Staff in writing as soon as possible but in any event at least five business days prior to the proposed implementation of the Public Interest Rule or Significant Change. The written notice will include the expected effective date of the Public Interest Rule or Significant Change and an analysis to support the need for immediate implementation. An application for an exemption from the 45-day advance filing requirements in National Instrument 21-101 must also be included as part of the written notice.

(c) If Staff do not agree that immediate implementation is necessary, Staff will promptly notify the Exchange, in writing, of the disagreement no later than the end of the third business day following filing of the notice under subsection 15(b). If the disagreement is not resolved, the Exchange will file the Public Interest Rule or Significant Change in accordance with the timelines in section 6.

16. **Review of a Public Interest Rule or Significant Change Implemented Immediately**

A Public Interest Rule or Significant Change that has been implemented immediately in accordance with section 15 will be published, if applicable, and reviewed and approved by the Director or by the Commission in accordance with the procedures set out in section 9, with necessary modifications. If the Director or the Commission does not approve the Public Interest Rule or Significant Change, the Exchange will immediately repeal the Rule or Change and inform its members of the decision.

17. **Application of Section 21 of the *Securities Act* (Ontario)**

The Commission's powers under subsection 21(5) of the *Securities Act* (Ontario) are not constrained in any way, notwithstanding a Rule or Change having been approved under this Protocol.

2.2.7 TMX Group Limited et al. – s. 147

Headnote

Section 147 of the Securities Act (Ontario) – application for exemption from the terms and conditions in the Commission's order recognizing TMX Group Limited as an exchange – disposition of shareholdings of TMX Group mitigates risk of conflict associated with the terms and conditions.

Applicable Legislative Provisions

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

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

AND

IN THE MATTER OF
MAPLE GROUP ACQUISITION CORPORATION AND
TMX GROUP INC. AND
TSX INC. AND
ALPHA TRADING SYSTEMS LIMITED PARTNERSHIP,
ALPHA TRADING SYSTEMS INC.,
ALPHA MARKET SERVICES INC. AND
ALPHA EXCHANGE INC.

AND

IN THE MATTER OF
SCOTIA CAPITAL INC.

ORDER
(Section 147 of the Act)

WHEREAS the Ontario Securities Commission (the "**Commission**") issued an order dated July 4, 2012, as varied and restated from time to time, recognizing each of Maple Group Acquisition Corporation ("**Maple**"), TMX Group Inc. ("**TMX Group**"), TSX Inc. ("**TSX**"), Alpha Trading Systems Limited Partnership ("**Alpha LP**") and Alpha Exchange Inc. ("**Alpha Exchange**") as an exchange pursuant to section 21 of the Act (the "**Exchange Recognition Order**");

AND WHEREAS at the time of granting the Exchange Recognition Order, Scotia Capital Inc. ("**SCI**") was an investor in Maple and is included in the definition of "original Maple shareholder" in subsection 1(a) of Schedule 2 to the Exchange Recognition Order;

AND WHEREAS SCI has disposed of its interests in the issued and outstanding voting securities of TMX Group Limited that it acquired in connection with the acquisition of TMX Group Inc. by Maple in 2012;

AND WHEREAS SCI has applied to the Commission (the "**Application**") for an exemptive relief order from the terms and conditions of Schedule 9 ("**Schedule 9**") to the Exchange Recognition Order (the "**Relief Sought**");

AND WHEREAS based on the Application and the representations that SCI has made to the Commission, the Commission has determined that it is not prejudicial to the public interest to grant to SCI the Relief Sought to the Exchange Recognition Order pursuant to section 147 of the Act;

IT IS HEREBY ORDERED that, pursuant to section 147 of the Act, SCI is granted the Relief Sought in respect of the terms and conditions set forth in Schedule 9 to the Exchange Recognition Order and that such relief shall remain in effect until such time as the terms and conditions set forth in Schedule 9 shall expire with respect to SCI in accordance with Section 72 of the Exchange Recognition Order.

DATED this 20th day of April, 2018.

"Frances Kordyback"

"Lawrence P. Haber"

2.2.8 Troilus Gold Corp. – s. 1(11)(b)

Headnote

Subsection 1(11)(b) – Order that the issuer is a reporting issuer for the purposes of Ontario securities law – Issuer is already a reporting issuer in Alberta and British Columbia – Issuer's securities listed for trading on the TSX Venture Exchange – Continuous disclosure requirements in Alberta and British Columbia are substantially the same as those in Ontario – Issuer has a significant connection to Ontario.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(11)(b).

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

AND

IN THE MATTER OF
TROILUS GOLD CORP.

ORDER
(Clause 1(11)(b))

UPON the application of Troilus Gold Corp. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to paragraph 1(11)(b) of the Act that the Applicant is a reporting issuer for the purposes of Ontario securities laws;

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

AND UPON the Applicant representing to the Commission as follows:

1. The Applicant was incorporated under the former *Company Act* (British Columbia) under the name Silverquest Resources Ltd. on October 15, 1985, changed its name to Cash Resources Ltd. on December 11, 1991, continued under the *Business Corporations Act* (Ontario) into Ontario on June 14, 2006 pursuant to articles of continuance, changed its name to Pitchblack Resources Ltd. on June 24, 2010 and changed its name to Troilus Gold Corp. pursuant to articles of amendment dated December 19, 2017.

2. The Applicant's head office is located at 65 Queen Street West, Unit 800, Toronto, Ontario M5H 2M5.

3. The authorized capital of the Applicant consists of an unlimited number of common shares (the **Common Shares**), 4,151,062 options to purchase Common Shares and 14,030,000 warrants to purchase Common Shares, of which 41,510,620 Common Shares, 4,111,250 options to purchase Common Shares and 14,030,000 warrants to purchase Common Shares are issued and outstanding as of the date hereof.

4. The Applicant is a reporting issuer under the *Securities Act* (British Columbia) (the **BC Act**) and the *Securities Act* (Alberta) (the **Alberta Act**).

5. As of the date hereof, the Applicant is not on the list of defaulting reporting issuers maintained pursuant to the BC Act or the Alberta Act, and is not in default of any of its obligations under the BC Act or the Alberta Act or the rules and regulations made thereunder.

6. The Applicant is not currently a reporting issuer or the equivalent in any jurisdiction in Canada other than British Columbia and Alberta.

7. The continuous disclosure requirements of the BC Act and the Alberta Act are substantially the same as the requirements under the Act.

8. The continuous disclosure materials filed by the Applicant under the BC Act and the Alberta Act are available on the System for Electronic Document Analysis and Retrieval (**SEDAR**).

9. The Common Shares are listed and posted for trading on the TSX Venture Exchange (**TSX-V**) under the trading symbol: TLG. The Common Shares are not traded on any other stock exchange or trading or quotation system.

10. The Applicant is not in default of any of the rules, regulations or policies of the TSX-V.

11. The TSX-V requires all of its listed issuers, which are not otherwise reporting issuers in Ontario, to assess whether they have a significant connection with Ontario, as defined in Policy 1.1 of the TSX-V Corporate Finance Manual, and, upon first becoming aware that it has a significant connection to Ontario, to promptly make a bona fide application to the Commission to be designated a reporting issuer in Ontario.

12. The Applicant has determined that it has a significant connection to Ontario in accordance with the policies of the TSX-V as the Applicant completed a reverse take-over transaction on December 20, 2017 pursuant to which (i) the Applicant was renamed Troilus Gold Corp. and (ii) a management team and board largely located in Ontario, joined the Applicant (the **RTO**). After the RTO the Applicant determined that its head office and the location of the majority of its management in Ontario established a significant connection to Ontario.

13. The Applicant's principal regulator is the British Columbia Securities Commission. The Commission will be the principal regulator for the Applicant once it has obtained reporting issuer status in Ontario. Upon the granting of this Order, the Applicant will amend its SEDAR profile to indicate that the Commission is its principal regulator.

14. Neither the Applicant nor any of its officers or directors, nor, to the knowledge of the Applicant and its directors and officers, any controlling shareholder of the Applicant has:

    (a) been subject to any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority;

    (b) entered into a settlement agreement with a Canadian securities regulatory authority; or

    (c) been subject to any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor making an investment decision.

15. Neither the Applicant nor any of its officers or directors, nor, to the knowledge of the Applicant and its directors and officers, any controlling shareholder of the Applicant is or has been the subject of:

    (a) any known ongoing or concluded investigation by a Canadian securities regulatory authority, or a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision; or

    (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangement or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the preceding 10 years.

16. None of the officers or directors of the Applicant, nor, to the knowledge of the Applicant and its directors and officers, any controlling shareholder of the Applicant is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

    (a) any cease trade or similar orders, or orders that denied access to any exemption under Ontario securities law, for a period of more than 30 consecutive days, within the preceding 10 years; or

    (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the preceding 10 years.

AND UPON the Commission being satisfied that to do so is in the public interest;

IT IS HEREBY ORDERED pursuant to clause 1(11)(b) of the Act that the Applicant is a reporting issuer for the purposes of Ontario securities law.

DATED this 20th day of April, 2018.

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

2.2.9 Pro-Financial Asset Management Inc. et al. – ss. 127, 127.1

IN THE MATTER OF
PRO-FINANCIAL ASSET MANAGEMENT INC.,
STUART MCKINNON and
JOHN FARRELL

AnneMarie Ryan, Commissioner and Chair of the Panel
Timothy Moseley, Vice-Chair
Janet Leiper, Commissioner

April 23, 2018

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

WHEREAS on February 14, 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 the sanctions and costs that the Commission should impose on the respondents as a result of the findings in the Commission's Reasons and Decision on the merits, issued on April 20, 2017;

ON READING the materials filed by, and on hearing the submissions of, the representatives for each of Staff of the Commission and Stuart McKinnon (**McKinnon**); with no one appearing for Pro-Financial Asset Management Inc. (**PFAM**), although properly served; and with no one appearing for John Farrell, having settled the allegations against him in respect of this proceeding;

IT IS ORDERED THAT:

1. Pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), McKinnon and PFAM are prohibited from trading in any securities for 10 years;

2. Pursuant to paragraph 2.1 of subsection 127(1) of the Act, McKinnon and PFAM are prohibited from acquiring any securities for 10 years;

3. Pursuant to paragraph 3 of subsection 127(1) of the Act, all exemptions contained in Ontario securities law shall not apply to McKinnon and PFAM for 10 years;

4. Pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, McKinnon shall resign from any positions he holds as a director or officer of any issuer, registrant or investment fund manager;

5. Pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, McKinnon is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for 10 years;

6. Pursuant to paragraph 8.5 of subsection 127(1) of the Act, McKinnon and PFAM are prohibited from becoming or acting as a registrant, an investment fund manager or a promoter for 10 years;

7. Pursuant to paragraph 9 of subsection 127(1) of the Act, McKinnon and PFAM shall each pay to the Commission an administrative penalty of $200,000.00, within 30 days of the date of this order;

8. Pursuant to paragraph 10 of subsection 127(1) of the Act, McKinnon and PFAM shall jointly and severally disgorge to the Commission $1,181,397.00, within 30 days of the date of this order;

9. Each of the payments required by paragraphs 7 and 8 of this Order is designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act; and

10. Pursuant to section 127.1 of the Act, McKinnon and PFAM shall jointly and severally pay the Commission costs of $487,950.34, within 30 days of the date of this order.

"AnneMarie Ryan"

"Timothy Moseley"
"Janet Leiper"

2.2.10 Compel Capital Inc. – s. 144

Headnote

Application by an issuer for a revocation of a cease trade order issued by the Commission – cease trade order issued because the issuer failed to file certain continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date -Issuer has provided an undertaking to the Commission that it will not complete (a) a restructuring transaction involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, (b) a reverse takeover with a reverse takeover acquiror that has a direct or indirect, existing or proposed, material underlying business which is not located in Canada, or (c) a significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, unless the issuer files a preliminary prospectus and a final prospectus with the Ontario Securities Commission and obtains receipts for the preliminary prospectus and the final prospectus from the Director under the Act.

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, c. S.5, AS AMENDED
(the "Act")

AND

IN THE MATTER OF
COMPEL CAPITAL INC.

ORDER
(Section 144 of the Act)

WHEREAS the securities of Compel Capital Inc. (the "**Applicant**") are subject to a cease trade order made by the Ontario Securities Commission (the "**Commission**") on May 5, 2017 (the "**Cease Trade Order**"), directing that trading and acquiring, whether direct or indirect, cease in respect of each security of the Applicant;

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

AND WHEREAS the Applicant has applied to the Commission pursuant to section 144 of the Act to revoke the Cease Trade Order;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was incorporated under the laws of Ontario on December 20, 1945 under the name Denbros Mines Limited. Pursuant to Articles of Amendment dated June 26, 1947, the Applicant changed its name to Slocan-Rambler Mines (1947) Limited. Pursuant to Articles of Amendment dated July 30, 2008, the Applicant changed its name to Compel Capital Inc.

2. The Applicant's head office is located at 3000-77 King St W, Toronto, Ontario M5K 1G8.

3. The Applicant is a reporting issuer in Ontario and is not a reporting issuer in any other jurisdiction in Canada.

4. The Applicant's authorized capital consists of an unlimited number of common shares (the "**Common Shares**"). As at the date hereof, there are approximately 2,127,284 Common Shares issued and outstanding.

5. The Applicant has no other securities, including debt securities, issued and outstanding.

6. The Common Shares are not listed or traded on any stock exchange or market in Canada or elsewhere.

7. The Cease Trade Order was issued as a result of the Applicant's failure to file its audited annual financial statements for the year ended December 31, 2016, related management's discussion and analysis ("**MD&A**") and certification under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* ("**NI 52-109 Certificates**") (collectively, the **Outstanding Filings**).

8. The Applicant subsequently failed to file other continuous disclosure documents with the Commission within the prescribed timeframe in accordance with the requirements of Ontario securities law, including the following:

   (i) unaudited interim financial statements, accompanying MD&A and related NI 52-109 Certificates for the interim periods ended March 31, 2017, June 30, 2017 and September 30, 2017.

9. The Applicant has filed with the Commission all continuous disclosure that it is required to file under the legislation.

10. The Applicant (i) is up-to-date with all of its other continuous disclosure obligations; (ii) is not in default of any of its obligations under the Cease Trade Order; and (iii) is not in default of any requirements under the Act or the rules and regulations made pursuant thereto.

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

12. As of the date hereof, the Applicant's profiles on the System for Electronic document Analysis and Retrieval (**SEDAR**) and the System for Electronic Disclosure by Insiders (**SEDI**) are current and accurate.

13. Since the issuance of the Cease Trade Order, there have been no material changes in the business, operations or affairs of the Applicant which have not been disclosed by news release and/or material change report and filed on SEDAR.

14. Other than the Cease Trade Order, the Applicant has not previously been subject to a cease trade order issued by any securities regulatory authority.

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

16. The Applicant has given the Commission a written undertaking that:

   (a) The Applicant will hold an annual meeting of shareholders within three months after the date on which the Cease Trade Order is revoked; and

   (b) The Applicant will not complete:

      i. A restructuring transaction involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada,

      ii. A reverse takeover with a reverse takeover acquirer that has a direct or indirect, existing or proposed, material underlying business which is not located in Canada, or

      iii. A significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada,

      unless

      A. The Applicant files a preliminary prospectus and a final prospectus with the Commission and obtains receipts for the preliminary and final prospectus from the Director under the Act,

      B. The Applicant files or delivers with the preliminary prospectus and the final prospectus the documents required by Part 9 of National Instrument 41-101 *General Prospectus Requirements* ("**NI 41-101**") including a completed personal information form and authorization in the form set out in Appendix A of NI 41-101 for each current and incoming director, executive officer and promoter of the Applicant, and

      C. The preliminary prospectus and final prospectus contain the information required by applicable securities legislation, including the information required for a probable restructuring transaction, reverse takeover or significant acquisition (as applicable).

17. Upon the revocation of the Cease Trade Order, the Applicant will issue a news release and concurrently file a material change report on SEDAR announcing the revocation of the Cease Trade Order and outlining the Applicant's future plans.

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

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the Cease Trade Order;

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

DATED at Toronto this 19th day of April, 2018.

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

2.3 Orders with Related Settlement Agreements

2.3.1 1832 Asset Management L.P. – ss. 127(1), 127.1

FILE NO.: 2018-20

IN THE MATTER OF
1832 ASSET MANAGEMENT L.P.

Robert P. Hutchison, Commissioner and Chair of the Panel
Frances Kordyback, Commissioner
Deborah Leckman, Commissioner

April 24, 2018

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

WHEREAS on April 24, 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 1832 Asset Management L.P. (**1832**) and Staff of the Commission for approval of a settlement agreement dated April 19, 2018 (the **Settlement Agreement**);

ON READING the Joint Application Record for a Settlement Hearing, including the Statement of Allegations dated April 19, 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. 1832 is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

3. 1832 shall:

   (a) submit to a review of its practices and procedures by an independent consultant (the **Consultant**), at 1832'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;

   (b) pay an administrative penalty in the amount of $800,000 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

   (c) pay costs of the Commission's investigation in the amount of $150,000, pursuant to section 127.1 of the Act.

"Robert P. Hutchison"

"Deborah Leckman"

"Frances Kordyback"

IN THE MATTER OF
1832 ASSET MANAGEMENT L.P.

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION AND
1832 ASSET MANAGEMENT L.P.

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 1832 Asset Management L.P. ("**1832**").

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 representatives ("**DRs**") 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**").

3. The Companion Policy to NI 81-105 provides that NI 81-105 was adopted in order to discourage sales practices and compensation arrangements that could be perceived as inducing participating 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.

4. 1832 is registered with the Commission as, among other things, an IFM and is the manager of the Dynamic family of mutual funds (the "**Products**"), among other mutual funds. The Products are distributed to investors by DRs registered with participating dealers, both third party and affiliated dealers. The only activities of 1832 as an IFM in respect of which the sales practices at issue in this proceeding are relevant are those in its role as manager of the Products.

5. As summarized below, from November 2012 to October 2017 (the "**Relevant Period**"), 1832 failed to comply with NI 81-105 and failed to meet the minimum standards of conduct expected of industry participants in relation to certain of its sales practices. In addition, 1832 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 1832's compliance with NI 81-105.

6. In particular, 1832 engaged in excessive spending on promotional activities on DRs including in relation to:

   (a) one-time events such as concerts and sports events, including play-off events. In many instances, the cost of these events to 1832 exceeded $700 per DR per event and, in more limited instances, the cost exceeded $1,000 per DR per event;

   (b) multiple promotional activities within the same quarter in breach of 1832's guidelines, including taking a DR to back-to-back Blue Jays baseball ("**Jays**") play-off games at a cost to 1832 of $1,340 for the DR and, in a one month period, taking a DR to two Toronto Maple Leafs hockey ("**Leafs**") games and a Rihanna concert at a cost to 1832 of $1,111 for the DR; and

   (c) on occasion, annual promotional activities, including spending more than $3,500 on one DR in 2015.

7. 1832 also provided promotional items and gifts (collectively "**Items**") to DRs that were not of minimal value (and were therefore excessive) and/or were not promotional in nature including by:

   (a) approving Items included in 1832's warehouse store (the "**Warehouse**") that were distributed to DRs, including a Bose wireless music system ($200), an executive briefcase ($190) and a golf GPS ($150);

(b) providing, with the approval of management, gifts of tickets to major events to DRs without requiring that an 1832 employee attend the event, including tickets to Jays games ($245) and to concerts such as Justin Bieber ($253);

(c) providing more than 2,000 gift cards to DRs, including approximately 150 gift cards costing more than $50 each to DRs, all of which gift cards constituted monetary benefits that were not permitted under NI 81-105; and

(d) providing Apple iPad minis and keyboards with a combined cost of approximately $325 each to 215 DRs who attended a mutual fund conference sponsored by 1832 in 2015 (the "**2015 Conference**") and with a combined cost of approximately $375 each, to 210 DRs who attended a mutual fund conference sponsored by 1832 in 2016 (the "**2016 Conference**") as well as Maui Jim sunglasses ($111) to those 210 DRs and, where applicable, the DR's guest.

8. In addition, 1832 provided excessive non-monetary benefits to DRs on food, drinks and entertainment at the 2015 and 2016 Conferences including:

(a) spending over $1,000 per DR on the final day of the 2015 Conference on food, drinks and a celebrity speaker; and

(b) spending over $850 per DR on the final day of the 2016 Conference on food, drinks and a celebrity speaker.

PART II – JOINT SETTLEMENT RECOMMENDATION

9. Staff of the Commission ("**Staff**") agrees to recommend settlement of the proceeding commenced by the Notice of Hearing dated April 19, 2018 (the "**Proceeding**") against 1832 according to the terms and conditions set out in Part VI of this Settlement Agreement (the "**Settlement Agreement**"). 1832 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, 1832 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. 1832

11. 1832 is registered with the Commission as an IFM, a Portfolio Manager, an Exempt Market Dealer and a Commodity Trading Manager. 1832 is wholly owned by The Bank of Nova Scotia and acquired the Products in 2011.

12. This Proceeding relates solely to 1832's role as manager of the Products and certain of its sales practices relating thereto.

B. The Legislative Framework

13. 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.

14. 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**").

15. 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.

16. 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.

17. 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.

18. 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. Excessive Spending on DRs on Promotional Activities

19. During the Relevant Period, 1832's Mutual Fund Sales Practices Compliance Guide ("**1832's Guide**") imposed a quarterly spending limit of $400 per DR on promotional activities, or alternatively, 1832 staff could take a DR to one "Box Event" or one "Golf Event" per quarter. No limit was imposed on the cost of a Box or Golf Event.

20. Box Events were defined in 1832's Guide as events hosted at venues such as the Air Canada Centre, Bell Centre, Scotiabank Place and Rogers Centre, where ticket and catering costs are set and fixed by the venue. For these events, 1832's Guide specified that it was acceptable to provide a DR with one pair of tickets to such an event per quarter and supply standard suite catering and bar service.

21. Golf events were described in 1832's Guide as generally being foursomes purchased for charity or sponsorship golf tournaments that are higher cost and higher profile events (including golf, cart rental and dinner) and to which the purchasing wholesaler takes three advisors.

1. Excessive Spending on One-Time Events

22. During the Relevant Period, 1832 spent more than $400 on DRs not only on a quarterly basis but on one-time events, including Box and Golf Events. Some examples of excessive spending on one time-events in 1832's fiscal years[1] in 2013 and 2014 include $755 spent on a DR for an Eagles concert, several Montreal Canadiens hockey ("**Canadiens**") games ranging in cost from $656 to $743 per DR and $641 spent on a DR for a Fleetwood Mac concert.

23. On a quarterly basis, 1832's compliance department reviewed amounts spent on DRs in the prior quarter for the purpose of reviewing spending on Golf and Box Events and to determine whether more than $400 had been spent on a DR in the quarter in connection with other promotional activities. For the 2015 fiscal year, there were more than 650 instances when more than $400 was spent on a DR, not only in a single quarter but on a one-time event, including approximately 480 instances when between $400 and $599 was spent on a one-time event and approximately 178 instances when between $600 and $863 was spent on a one-time event.

24. Some examples of excessive spending on DRs on one-time events in fiscal 2015 include:

Event	No. of DRs	Cost Per DR
Various Vancouver Canucks hockey ("**Canucks**") games	39	$740-863
Various Canadiens games	42	$703-$770
Stevie Wonder concert	5	$749
Paul McCartney concert	3	$672
Golf green fees	3	$625
Hospital Foundation Gala	9	$500
Dinner	53	$424

[1] 1832's fiscal year commences on October 1 of the previous calendar year. For example, 1832's 2013 fiscal year commences on October 1, 2012.

25. In fiscal 2016, there were more than 960 instances when more than $400 was spent on a DR on a one-time event, including approximately 664 instances when between $400 and $599 was spent on a one-time event and approximately 305 instances when between $600 and $1,169 was spent on a one-time event.

26. Some examples of excessive spending on DRs on one-time events in fiscal 2016 include:

Event	No. of DRs	Cost Per DR
Adele concert	1	$1,169
Canadiens games	7	$912-$1,031
Jays game	4	$1,009
Charles Aznavour concert	6	$932
Jays games	36	$825-$891
Leafs games	5	$818
Jays games	30	$717-$779
Celine Dion concert	23	$701-$755
Canucks games	28	$701-$763
Kanye West concert	2	$662
Usher concert	6	$608
Green fees	3	$500

27. Excessive spending on DRs on one-time events continued in 2017, including spending on a DR at a cost of $1,028 for a Tears for Fears and Hall & Oates concert, $732 on a DR for a Canucks game and $644 on each of 14 DRs for a Calgary Flames play-off hockey game.

2. Excessive Quarterly Spending on DRs in Breach of 1832's Guide

28. Pursuant to 1832's Guide, DRs should have been offered no more than one Box Event or Golf Event per quarter or no more than $400 in equivalent entertainment per quarter. However, during the Relevant Time, 1832 frequently breached this requirement.

29. In fiscal 2015, there were approximately 600 instances when 1832's quarterly spending on a DR was not limited to one Box or Golf Event or total spending on other promotional activities exceeded $400. In fiscal 2016, there were approximately 800 of such instances.

30. In particular, DRs were taken to an event or event(s) in addition to a Box or Golf Event in the quarter or DRs were taken to multiple events and more than $400 was spent on the DR in the quarter in breach of 1832's Guide. Examples of excessive spending on DRs in the same quarter in breach of 1832's Guide include, in 2015, taking a DR to back-to-back Jays play-off games at a cost to 1832 of $1,340 and, in 2016, in a one month period, taking a DR to two Leafs games and a Rihanna concert at a cost to 1832 of $1,111.

31. This type of excessive spending in breach of 1832's Guide continued in fiscal 2017. For example, a DR and two guests of the DR were taken to a Tears for Fears and Hall & Oates concert on June 16, 2017 at a cost to 1832 of $1,028, and, in the same quarter, the DR was taken to a Tom Petty concert on July 26, 2017 at a cost to 1832 of $607.

3. Excessive Annual Spending on DRs on Promotional Activities

32. During the Relevant Period, although 1832's Guide did not expressly impose any annual limits on the spending on DRs on promotional activities, 1832 treated 1832's Guide as establishing a combined DR annual limit on DR spending of $2,000 (for both promotional activities and Items). Since fiscal 2013, 1832 has, on occasion, spent excessive amounts annually on DRs on promotional activities including, in some cases, more than $2,000 annually on DRs and on one occasion, more than $3,500 on one DR in 2015.

D. Excessive Spending on Items

1. 1832's Gift Policy

33. According to 1832's Guide, 1832 could spend up to $400 per year on a DR on Items. However, approval from a regional vice-president ("**RVP**") was required if a single item or combination of items spent at one time exceeded $100 ("**Gift Limit**").

2. Stocking Excessive Items in the 1832 Warehouse

34. Among other requirements, in order for the provision 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.

35. 1832's Guide provided examples of acceptable promotional items as being "pens, coffee mugs, golf balls and t-shirts." 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.

36. However, during the Relevant Period, 1832 maintained a warehouse (already defined above as the "Warehouse") that carried many Items for distribution to DRs bearing 1832's corporate logo that were not of minimal value and were not comparable to the promotional items referred to in 1832's Guide. Examples of such Items carried in the Warehouse from 2015 to 2017 that were gifted to DRs included:

Warehouse Item	Cost
BOSE Sound Touch 10 wireless music system	$200
Executive briefcase	$190
BOSE around-ear headphones	$155
BUSHNELL Neo-Ghost golf GPS	$150
Nike golf bag	$145
Sound Link Bluetooth speaker and carry	$138

3. Excessive Gifting with the Approval of Management

37. As set out above, 1832's Guide permitted 1832 staff to purchase single Items for DRs above the Gift Limit if RVP approval was obtained. 1832's RVPs regularly permitted the provision of Items to DRs at costs above the Gift Limit, either by approving Item requests made by 1832 staff or by providing Items directly to DRs. In some cases, RVP approval was not obtained until after the expense for the Item had been incurred. In other cases, RVP approval could not be located for the Item.

38. Examples of Items that were not of minimal value and, in some cases, that were not of a promotional nature, that were provided to DRs in 2016 with the approval of an RVP or provided to a DR directly by an RVP include:

Item(s)	Cost
Samsung Galaxy Tablet	$261
Dom Pérignon champagne	$247
Sports jacket	$232
High Sierra rolling duffel bag	$213
Bose wireless music system	$203
Gift of wine	$200

4. Gifts of Tickets to Major Events in Breach of NI 81-105

39. Although not specifically addressed in 1832's Guide, 1832 allowed its staff to gift tickets to DRs that were not of minimal value to major events without requiring 1832 staff to attend the event. This practice resulted in 1832 providing gifts to DRs of a non-promotional nature that were not of minimal value.

40. During the Relevant Period, 1832 gifted ticket(s) to major events to DRs, generally with the approval of RVPs, that were neither of minimal value nor promotional in nature. Examples include gifts of ticket(s) to the following events:

Year	Event Ticket(s)	Cost
2014	Leafs game	$410
2014	Tom Petty concert	$200
2015	Raptors game	$205
2015	Rush concert	$191
2015	Marvel on Ice performance	$156
2016	Justin Bieber concert	$253
2016	Jays game	$245
2016	Canadiens game	$213
2016	Celine Dion concert	$218
2016	Calgary Stampede	$146

5. Gift Cards and Gift Certificates

41. From 2013 to 2015, 1832's Guide permitted the gifting of gift certificates up to a maximum value of $50, as part of an approved regional advisor recognition program. By fiscal 2016, 1832's revised Guide prohibited the giving of gift certificates.

42. During fiscal 2013 to fiscal 2016, 1832 provided over 1,920 gift cards to DRs up to a maximum value of $50, of which 94 gift cards were provided in fiscal 2016 in breach of 1832's revised Guide.

43. In addition to providing gift cards to DRs with a maximum value of $50, during this same period, 1832 provided over 75 gift cards to DRs with a value of between $51 and $99 and approximately 75 gift cards with a value of $100 or more, in breach of 1832's Guide.

44. Regardless of the value, the provision of gift cards and gift certificates constitutes the provision of monetary benefits which is contrary to Part 5 of NI 81-105 as only the provision of non-monetary benefits to DRs is permitted under that part. Part 3 of NI 81-105 deals with the provision of permitted monetary benefits to DRs. However, gift certificates are not allowable under this part of NI 81-105. As a result, 1832 provided these monetary benefits to DRs in breach of section 2.1 of NI 81-105.

E. 1832 Conferences

1. Excessive Gifts of iPad Minis and Other Gifts

45. 1832 hosted the 2015 Conference and the 2016 Conference pursuant to section 5.2 of NI 81-105. At each of these conferences, 1832 gifted Apple iPad minis and keyboards to the DRs who attended the conferences. In 2015, approximately 215 DRs received iPad minis and keyboards at a combined cost to 1832 of approximately $325 per DR and in 2016, approximately 210 DRs received iPad minis and keyboards at a combined cost to 1832 of approximately $375 per DR.

46. Attendees at the 2016 Conference received other Items in addition to the Apple iPad mini and keyboard, including, among other Items, Maui Jim sunglasses (at a cost to 1832 of $111) resulting in a cost to 1832 for the total Items of over $535 per DR. Approximately 43 DRs received a VIP gift which increased the cost of the total Items received by those DRs to over $580. In addition, approximately 95 DRs brought guests to the conference who also received Maui

Jim sunglasses resulting in a total cost to 1832 of the Items provided to the DRs (inclusive of the sunglasses given to their guest) of over $646 per DR.

47. The provision of the Items referred to above did not comply with section 5.6 of NI 81-105 as they were not of minimal value and, with respect to the sunglasses, were not promotional in nature.

48. While 1832 intended for conference attendees to use the iPad minis to access the conference materials during the conference and eliminate the printing and shipping costs for conference materials, 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 Food, Drinks and Entertainment

49. 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).

50. During part of the 2015 and 2016 Conferences, 1832 provided non-monetary benefits to DRs on food, drinks and entertainment that did not comply with this requirement.

51. In particular, 1832 spent over $1,000 per DR on the final day of the 2015 Conference which included:

(a) approximately $377 per DR on a celebrity speaker, Magic Johnson, a retired professional basketball player who spoke about the "Magic of Winning"; and

(b) over $670 per DR attending alone or over $1,340 per DR attending with a guest (inclusive of ancillary costs) on evening activities including cocktails, a clambake and post-event cocktails and entertainment, all at the Bacara Resort in Santa Barbara, California.

52. In addition, 1832 spent over $850 per DR on the final day of the 2016 Conference which included:

(a) approximately $390 per DR on a celebrity speaker, Steve Wozniak, a co-founder of Apple, who spoke on the "Art of Entrepreneurship"; and

(b) over $490 per DR attending alone or over $980 per DR attending with a guest (inclusive of ancillary costs) on evening activities including dinner and an after-party at the Loews Ventana Canyon hotel in Tucson, Arizona.

F. Lack of Controls over 1832's Sales Practices

53. Pursuant to subsection 32(2) of the Act and section 11.1 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**"), 1832 was required to establish and 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.

54. However, as set out below, during the Relevant Period, 1832 failed to establish and 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.

1. Failure to Record All Costs Associated with the Same Event

55. 1832 failed to ensure that all costs associated with the same event were attributed to a DR for the purpose of its system for tracking benefits provided to DRs (the "**DR Spending Records System**").

56. Tickets for events such as concerts and hockey, basketball and baseball games were purchased at a corporate level and allocated to different regions, and then to DRs within the region. However, on a number of occasions, 1832 did not ensure that the cost of tickets gifted to a DR as part of a promotional event was properly allocated to that DR in its DR Spending Records System. In other cases, 1832 did not record the meals and/or drinks associated with an event in its DR Spending Records System.

57. As part of its investigation into this matter, Staff sought and obtained summaries of 1832's quarterly spending on DRs above $400 ("**Quarterly Spending Summaries**") for fiscal 2015 and 2016. As a result of follow-up questions raised by Staff regarding these Quarterly Spending Summaries, 1832 made numerous additions to the Quarterly Spending Summaries provided to Staff for fiscal 2015 and fiscal 2016 to add missing expenditures on DRs including missing

costs for ticket(s), meals and/or beverages. Based on the Quarterly Spending Summaries reviewed by Staff, 1832's DR Spending Records System underreported amounts 1832 spent on DRs approximately 10 percent of the time.

2. Failure to Record Actual Cost of Items provided to DRs and their Guests at the 2015 and 2016 Conferences

58. In 2015 and 2016, 1832's Guide required that following a conference, "all promotional items provided to conference attendees must be recorded against the individual DR's $400 per year limit." The Guide also required that "at all times, promotional items are valued at their actual purchase price, including tax where applicable, and will be recorded in OOD [Oracle on Demand] against the receiving DR's name."

59. However, 1832 did not follow this practice with regard to the allocation of the Items given at the 2015 and 2016 Conferences. Instead, 1832 applied a cost savings analysis in assessing the value of the iPad minis gifted to DRs in 2015 and 2016 and attributed a reduced amount against the receiving DR's name on its DR Spending Records System in breach of 1832's Guide.

60. In particular, in relation to the total cost to 1832 of approximately $400 per DR for the total Items provided to DRs at the 2015 Conference (including the iPad mini and keyboard), only $251 was allocated against the receiving DR's name in the DR Spending Records Systems. In relation to the total cost to 1832 of approximately $580 per DR for the Items provided to DRs at the 2016 Conference, only $280 was allocated against the receiving DR's name in the DR Spending Records Systems. In addition, for those DRs whose guests received Maui Jim sunglasses, 1832 failed to allocate the cost of those sunglasses against the receiving DR's name in the DR Spending Records System.

3. Failure to Prevent Re-Occurrences of Breaches of Promotional Activity Guidelines in Relation to the Same DR in Subsequent Quarters

61. As referred to above, on a quarterly basis, 1832's compliance department reviewed amounts spent on DRs in the prior quarter for the purpose of reviewing spending on Box and Golf Events and to determine whether more than $400 had been spent on a DR in the quarter in connection with other promotional activities. With the exception of Box or Golf Events, if spending on promotional activities in the quarter exceeded $420 in aggregate, 1832's compliance department would send an email to the 1832 employee responsible for the spending on the DR to advise the employee that the quarterly spending limit had been exceeded and to spend less on the DR in the following quarter.

62. In addition, 1832 relied on its sales management and its sales teams to review and verify that 1832's quarterly promotional spending limit/parameters would not be breached by offering a ticket to an event to a particular DR.

63. Despite these practices, on a number of occasions in 2015 and 2016, 1832 breached its quarterly promotional activity spending limit/parameters in more than one quarter during the year for the same DR. For example, in 2015, 1832 breached its quarterly promotional activity spending limit/parameters in every quarter that year in relation to the same DR.

4. Inadequate Internal Parameters around Spending

64. During the Relevant Period, 1832 did not establish any internal spending parameters for Golf and Box Events or for meals. In addition, 1832 did not establish adequate internal spending parameters around annual spending on DRs or to assist 1832 in evaluating the reasonableness of proposed non-monetary benefits, on an individual and aggregate basis, to be provided to DRs at conferences. Nor did 1832 require approval of conference budgets by its compliance department.

5. Conclusions regarding Controls and Supervision

65. As a result of the above, during the Relevant Period, 1832 failed to:

(a) establish internal parameters for spending on one-time events, meals and annual spending on DRs and to assist in evaluating the reasonableness of proposed non-monetary benefits, on an individual and aggregate basis, to be provided at conferences;

(b) adequately train and supervise its employees who provided non-monetary benefits to DRs and the employees entering information into the DR spending Record-System;

(c) adequately monitor its allocation methodology and tracking of tickets;

(d) require approval of conference budgets by 1832's compliance department;

(e) carry out adequate testing of its DR Spending Records System and internal controls, which resulted in excessive spending on DRs that continued undetected during the Relevant Period; and

(f) ensure appropriate escalation and discipline in relation to instances of spending in excess of 1832's Guide.

66. Consequently, during the Relevant Period, 1832 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 subsection 32(2) of the Act and section 11.1 of NI 31-103.

G. Failure to Maintain Adequate Books and Records in Relation to 1832's Sales Practices

67. 1832 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.

68. As set out above, during the Relevant Period, 1832 failed to maintain adequate books, records and other documents in relation to its sales practices in the following respects:

(a) 1832 failed to enter all expenditures on DRs into the DR Spending Records System;

(b) 1832 failed to enter expenditures on DRs into the DR Spending Records System on a timely basis;

(c) in isolated instances, records reflecting RVP approval of Items provided to DRs were either not kept or were unavailable;

(d) in relation to the 2015 and 2016 Conferences, the actual purchase price of all Items provided to DRs attending the conferences was not properly recorded in the DR Spending Records System; and

(e) in relation to the 2016 Conference, the actual purchase price of all Items provided to guests of DRs was not attributed to the DR in the DR Spending Records System.

69. In addition, in February 2018, as a result of documents sought by Staff as part of its investigation into this matter, 1832 discovered that one of its employees (the "**Employee**") had on three occasions provided tickets to a DR without fully attributing the cost of the tickets to the DR in 1832's DR Spending Records System. At least on one occasion, the Employee spread the ticket cost among other DRs in the DR Spending Records System and characterized the gift as a promotional activity rather than as a gift. The Employee is no longer employed by 1832.

70. As a result of the above, during the Relevant Period, 1832 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. Corrective Action Already Initiated

71. In 2017, 1832 began to make changes to its internal practices with a view to improving its compliance with NI 81-105, including terminating a 2017 annual offsite Conference in the U.S. and increasing the involvement of its compliance department in the planning and budgeting for smaller, domestic mutual fund conferences.

72. Commencing in late 2017, while Staff's investigation into the matters in issue was ongoing and of its own volition, 1832 took additional steps to improve its compliance and supervision functions in relation to sales practices and NI 81-105. These initiatives include but are not limited to the following:

(a) with the assistance of an independent consultant (the "**Consultant**") retained in December 2017, updating and revising 1832's Guide; and

(b) development and roll out of a comprehensive action plan to enhance its training of staff and tracking of expenditures, and to improve controls and supervision relating to the provision of promotional activities and Items to DRs to ensure compliance with NI 81-105 (the "**Action Plan**") to enhance the internal sales practices program.

73. The Action Plan includes:

(a) education of all sales employees on the new Guide;

(b) enhanced training programs;

(c) pre-approval processes prior to expenditures on promotional events and conferences, including creation of a new centralized event ticket management group to review and confirm that the quarterly limit for a DR has not and will not be exceeded if the ticket is issued to him or her; and

(d) enhanced monitoring and reporting by management and compliance on a monthly and quarterly basis.

74. As part of this Settlement Agreement, the Consultant will complete its review of 1832's sales practices and internal controls around its sales practices and make recommendations to 1832 to ensure that 1832's sales practices and internal controls comply with, among other things, the requirements of NI 81-105, subsection 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 Compliance and Registrant Regulation Branch of the Commission.

B. Other Context

75. 1832 advises Staff of the following:

(a) most of the Items in the Warehouse were not excessive items; and

(b) the iPad minis provided to DRs at the Conferences in 2015 and 2016 were intended to eliminate the printing and shipping costs for the conference materials.

C. 1832 Paid for the Benefits in Issue

76. 1832 advises Staff of the following:

(a) 1832, not the Products, paid for the monetary and non-monetary benefits at issue;

(b) the performance of the Products has not been impacted by these matters. The management expense ratios of the Products were not affected by the monetary and non-monetary benefits that were paid to DRs; and

(c) 1832, not the 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 its engagement, as described in Schedule "B" to this Settlement Agreement.

D. Cooperation with Staff's Investigation

77. 1832 was fully cooperative with Staff during the investigation.

78. 1832 has no disciplinary history with any securities regulator.

PART V – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

79. By engaging in the conduct described above, 1832 admits and acknowledges that it has breached Ontario securities law and that it has acted contrary to the public interest. In particular,

(a) during the Relevant Period, 1832 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 provision of Items resulting in a breach by 1832 of section 2.1 of NI 81-105;

(b) during the months of May 2015 and May 2016, 1832 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 meals, dinners and entertainment and through the gifting of iPad minis and other Items at the 2015 and 2016 Conferences resulting in a breach by 1832 of section 2.1 of NI 81-105;

(c) during the period November 2012 to October 2016, 1832 provided monetary benefits to DRs in the form of gift cards that were not permitted under Part 3 of NI 81-105 resulting in a breach by 1832 of section 2.1 of NI 81-105;

(d) during the Relevant Period, 1832 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, in breach of subsection 32(2) of the Act and section 11.1 of NI 31-103;

(e) during the Relevant Period, 1832 failed to maintain books, records and other documents as were reasonably required to demonstrate its compliance with section 2.1 and Part 5 of NI 81-105, in breach of paragraph 3 of subsection 19(1) of the Act; and

(f) the conduct referred to above is also contrary to the public interest.

PART VI – TERMS OF SETTLEMENT

80. 1832 agrees to the terms of settlement listed below and consents to the Order in substantially the form attached hereto as Schedule "A", that provides that:

(a) the Settlement Agreement is approved;

(b) 1832 is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

(c) 1832 shall

(i) submit to a review of its practices and procedures carried out by the Consultant, at 1832'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 $800,000 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.

81. 1832 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.

82. 1832 agrees to attend in person at the hearing before the Commission to consider the proposed settlement.

83. 1832 acknowledges that this Settlement Agreement and proposed Order may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to 1832. 1832 should contact the securities regulator of any other jurisdiction in which it may intend to engage in any securities or derivatives related activities, prior to undertaking such activities.

PART VII – FURTHER PROCEEDINGS

84. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law against 1832 in relation to the facts set out in Part III of this Settlement Agreement, subject to paragraph 85 below.

85. If the Commission approves this Settlement Agreement and 1832 fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against 1832. 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

86. The parties will seek approval of this Settlement Agreement at a public hearing (the "**Settlement Hearing**") before the Commission scheduled for April 24, 2018, or on another date agreed to by Staff and 1832, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.

87. Staff and 1832 agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the Settlement Hearing on 1832's conduct, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

88. If the Commission approves this Settlement Agreement:

    (a) 1832 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.

89. Whether or not the Commission approves this Settlement Agreement, 1832 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

90. 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 1832 before the Settlement Hearing takes place will be without prejudice to Staff and 1832; and

    (b) Staff and 1832 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.

91. 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 1832 otherwise agree in writing or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

92. This Settlement Agreement may be signed in one or more counterparts which, together, constitute a binding agreement.

93. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated at Toronto this 19th day of April, 2018

1832 ASSET MANAGEMENT L.P.

By: *"John Pereira"*
John Pereira
Senior Vice President and Chief Operating Officer, Asset Management
The Bank of Nova Scotia

COMMISSION STAFF

By: *"Jeff Kehoe"*
Jeff Kehoe
Director, Enforcement Branch

SCHEDULE "A" – DRAFT ORDER

FILE NO.: _____

IN THE MATTER OF 1832 ASSET MANAGEMENT L.P.

_____

_____

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

WHEREAS on April 24, 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 1832 Asset Management L.P. ("**1832**") and Staff of the Commission for approval of a settlement agreement dated April 19, 2018 (the "**Settlement Agreement**");

ON READING the Joint Application Record for a Settlement Hearing, including the Statement of Allegations dated April 19, 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. 1832 is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

3. 1832 shall:

   (a) submit to a review of its practices and procedures by an independent consultant (the "Consultant"), at 1832'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;

   (b) pay an administrative penalty in the amount of $800,000 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

   (c) pay costs of the Commission's investigation in the amount of $150,000, pursuant to section 127.1 of the Act.

SCHEDULE "B" – REVIEW OF PRACTICES AND PROCEDURES

1. 1832 Asset Management L.P. ("**1832**") shall continue to retain the independent consultant (the "**Consultant**"), it first retained in December 2017, to review 1832's sales practices and the controls around 1832's sales practices relating to the Dynamic family of mutual funds (the "**Products**") which includes a review of 1832's operations, internal controls, practices, policies and procedures relating to its sales practices in connection with the Products (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**"), subsection 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 1832 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 1832 staff are trained on business promotion matters to ensure compliance with applicable laws related to the Sales Practice System, including NI 81-105;

2. 1832 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 to ensure that 1832's Sales Practice System conforms with the obligations set out in paragraph 1 above (the "**Report**"), within 60 days of the Order approving the Settlement Agreement between Staff of the Commission ("**Staff**") and 1832 dated April 19, 2018;

3. Within 12 months of the delivery of the Report to the OSC Manager, 1832 shall have fully implemented the recommendations of the Consultant described in the Report, and the Ultimate Designated Person and the Chief Compliance Officer of 1832 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, 1832 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 1832 ("**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. 1832 shall provide the Consultant with reasonable access to all of 1832's books and records necessary to complete the Consultant's mandate and will allow the Consultant to meet privately with 1832's officers, directors and employees. 1832 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. 1832 shall not terminate the Consultant's retainer without prior written approval by the OSC Manager; and

8. 1832 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 1832's progress with respect to the implementation of the recommendations in the Report and/or any other matter relevant to this review.

2.3.2 Donna Hutchinson et al. – s. 127

FILE NO.: 2017-54

IN THE MATTER OF
DONNA HUTCHINSON,
CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDERS and
PATRICK JELF CARUSO

Janet Leiper, Commissioner and Chair of the Panel
Deborah Leckman, Commissioner
Robert P. Hutchison, Commissioner

April 24, 2018

ORDER
Section 127 of the *Securities Act*, RSO 1990, c S.5)

WHEREAS on April 24, 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 the approval of a settlement agreement dated April 20, 2018 (the **Settlement Agreement**) between Donna Hutchinson (the **Respondent**) and Staff of the Commission (**Staff**);

ON READING the Statement of Allegations dated September 21, 2017, and the Settlement Agreement and on hearing the submissions of representatives of Staff and the Respondent;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;

2. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

3. trading by the Respondent in any securities and derivatives cease for a period of two years, pursuant to paragraph 2 of subsection 127(1) of the Act commencing on the date of the Order, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which the Respondent has legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;

4. the acquisition of any securities by the Respondent is prohibited for a period of two years, pursuant to paragraph 2.1 of subsection 127(1) of the Act commencing on the date of the Order, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the *Income Tax Act* (Canada)) in which the Respondent has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;

5. any exemptions contained in Ontario securities law do not apply to the Respondent for a period of two years, pursuant to paragraph 3 of subsection 127(1) of the Act;

6. the Respondent shall resign any position she holds as a director or officer of an issuer, registrant or investment fund manager, pursuant to paragraphs 7, 8.1, and 8.3 of subsection 127(1) of the Act commencing on the date of the Order;

7. the Respondent is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for a period of two years, pursuant to paragraph 8, 8.2 and 8.4 of subsection 127(1) of the Act, commencing on the date of the Order; and

8. the Respondent is prohibited from becoming or acting as a registrant, investment fund manager or a promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act commencing on the date of the Order.

"Janet Leiper" "Deborah Leckman" "Robert P. Hutchison"

IN THE MATTER OF
DONNA HUTCHINSON,
CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDERS and
PATRICK JELF CARUSO

SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION AND
DONNA HUTCHINSON

PART I – INTRODUCTION

A. Regulatory Message

1. This is a case of insider tipping. Donna Hutchinson ("**Hutchinson**" or "**the Respondent**"), was a legal assistant at a law firm. She agreed to tip a good friend who was experiencing financial problems. He was to pass on the tip to a third party who would trade on the information. She has cooperated with Staff and implicated her friend and others in their serious misconduct. She is entitled to significant credit for her cooperation.

B. Notice of Hearing

2. The parties will jointly file a request that the Ontario Securities Commission (the "**Commission**") issue a Notice of Hearing (the "**Notice of Hearing**") to announce that it will hold a hearing (the "**Settlement Hearing**") to consider whether, pursuant to section 127 of the Act, it is in the public interest for the Commission to make certain orders against Hutchinson.

PART II – JOINT SETTLEMENT RECOMMENDATION

3. Staff of the Commission ("**Staff**") recommend settlement of the proceeding (the "**Proceeding**") against the Respondent commenced by the Notice of Hearing, in accordance with the terms and conditions set out in Part V of this Settlement Agreement. Staff and the Respondent consent to the making of an order (the "**Order**") in the form attached as Schedule "A" to this Settlement Agreement based on the facts set out herein.

4. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

PART III – AGREED FACTS

A. Overview

5. The Respondent was initially employed as a legal assistant by a large Toronto law firm in 1983. (the "**Law Firm**"). In the early 2000s she stopped working at the Law Firm for approximately two years. She then resumed working for the Law Firm until September, 2017. The Law Firm handles a large volume of merger & acquisition ("**M&A**") work including some of the largest M&A transactions in Canada. From October 1, 2011 to April 30, 2016 (the "**Material Time**"), the Respondent provided assistance with M&A transactions during the course of her employment. It was a condition of her employment that she was to keep material information obtained during the course of her employment confidential. Hutchinson acknowledges that she was aware of her obligations in this respect. .

6. The Respondent knew the co-respondent, Cameron Edward Cornish ("**Cornish**") for approximately 18 years. At the beginning of their relationship, they resided together for approximately two years. After they stopped residing together, they remained good friends. During the Material Time, Hutchinson and Cornish were in regular and frequent contact.

7. Cornish was employed at a Toronto brokerage (the "**Toronto brokerage**") as an institutional trader and was registered with the Commission. Cornish maintained an institutional trading account at the Toronto Brokerage, where, through a profit-sharing agreement, he could realize trading profits from self-initiated trades.

8. During the Material Time, Cornish was a close friend of the co-respondent, Patrick Jelf Caruso ("**Caruso**"). Caruso holds trading accounts in his own name at Canadian brokerages; had trading accounts under corporate entities he has created, including Riverview Capital Inc. ("**Riverview Capital**"); and has a trading account in the name of Q Capital Investments Ltd. ("**Q Capital**"), a British Virgin Islands-incorporated entity that Caruso incorporated on May 8, 2012. Q Capital's trading accounts were held at an investment firm in Bermuda (the "**Bermudian Investment Firm**").

9. Cornish also knows the co-respondent David Paul George Sidders ("**Sidders**"). Sidders is a United Kingdom resident who is currently domiciled in Bermuda. Cornish has known Sidders for approximately 18 years. During the Material Time, he was a close friend of Cornish. Sidders held at least two trading accounts at a Panama-based brokerage house (the "**Panamanian Brokerage**"). One of Sidders' trading accounts was registered in his name, and the other was in his Panama-incorporated company ("**Sidders' Company**").

10. Prior to the Material Time, Cornish began to experience financial problems. In order to assist her good friend with his financial problems, Hutchinson agreed to tip Cornish information respecting M & A transactions being handled by the Law Firm. It was her understanding that Cornish would not trade on this information himself but would pass it on to Caruso. Caruso had money and he would use the information to make trades.

11. The Respondent was unaware of the specific trading conducted by Caruso. She sometimes received small amounts of cash from Cornish for some of the tips she provided.

B. Tipping of Transactions

12. The Respondent tipped Cornish respecting the following M & A transactions:

Quadra FNX Mining Ltd.

(a) On December 6, 2011, KGHM Polska Miedz SA ("**KGHM**") publicly announced that it had agreed to acquire all the outstanding shares of Quadra FNX Mining Ltd. ("**Quadra**") for $15.00 per share. Prior to the announcement, the transaction was confidential and had not been generally disclosed.

(b) The Law Firm was retained by KGHM on the takeover of Quadra, and on October 14, 2011, the Law Firm opened a file.

(c) The Respondent became aware of the transaction and tipped Cornish. Hutchinson believes that Cornish tipped Caruso.

(d) Although the Respondent was not specifically aware of their trading:

  (i) Between November 2, 2011 and December 5, 2011, Cornish accumulated Quadra securities through his institutional account at the Toronto Brokerage and earned a profit of approximately $116,549.

  (ii) Between November 8, 2011 and December 2, 2011, Sidders purchased shares of Quadra in his personal account at the Panamanian Brokerage.

  (iii) On December 6, 2011, after the Quadra takeover announcement was made, Sidders sold his shares and realized a profit of approximately $220,000.

  (iv) Between November 24, 2011 and December 2, 2011, Caruso purchased and sold shares of Quadra through his Canadian brokerage account. Prior to the takeover announcement, he maintained a position of 3,800 shares.

  (v) On December 6, 2011, after the Quadra takeover announcement, Caruso liquidated his position, yielding an approximate $23,600 profit.

(e) The Respondent received around $2,000 or $3,000 in cash through various payments from Cornish approximately one week after the transaction was publicly announced.

X Company

(a) On February 18, 2013, Y Company ("**Y Co.**") sent a non-public confidential expression of interest letter to X Company ("**X Co.**") to acquire X Co. for a combination of cash and Y Co. stock, which valued X Co. at approximately $53.50 U.S. per share. The disclosure of this letter was not made public. On March 15, 2013, the board of directors of X Co. advised Y Co. that their offer was not sufficient to warrant further consideration.

(b) The Law Firm was retained by Y Co., and had opened a file respecting this transaction on September 12, 2012.

(c) Hutchinson tipped Cornish respecting the transaction.

(d) Hutchinson was not aware whether others traded on her tip with respect to this transaction, however:

(i) Between February 20, 2013 and February 22, 2013, Sidders bought 7,000 shares of X Co in Sidders' Company account held at the Panamanian Brokerage.

(ii) On February 21, 2013, Caruso, through his Q Capital account, bought 15,000 shares of X Co. Q Capital also purchased put options on the acquiring firm, Y Co., and call options on X Co.

(e) Hutchinson did not receive any money for her tip respecting this transaction.

Rainy River Resources Ltd.

(a) On May 31, 2013, Rainy River Resources Ltd. ("**Rainy River**") and New Gold Inc. ("**New Gold**") publicly announced that they had entered into a definitive acquisition agreement by which New Gold would acquire all the outstanding common shares of Rainy River for 0.5 of a common share of New Gold or $3.83 in cash at the election of each shareholder. Prior to the announcement, the transaction was confidential and had not been generally disclosed.

(b) The Law Firm was retained by Rainy River on May 14, 2013 to act on its acquisition by New Gold.

(c) Hutchinson tipped Cornish respecting the transaction.

(d) Although Hutchinson understood that Cornish would not trade on her tips, Cornish, through his institutional trading account, bought and sold shares of Rainy River on May 30, 2013, the day prior to the takeover announcement.

(e) Hutchinson does not recall receiving any money for her tip respecting this transaction.

Osisko Mining Corp.

(a) On April 16, 2014, Yamana Gold Inc. ("**Yamana**") and Agnico Eagle Mines Ltd. ("**Agnico**") announced that they have entered into an agreement pursuant to which Yamana and Agnico would jointly acquire Osisko Mining Corp. ("**Osisko**") for an approximate value of $8.15 per Osisko share. Prior to the announcement, the transaction was confidential and was not generally disclosed.

(b) The Law Firm was retained by Agnico on January 16, 2014 as its legal counsel in connection with a possible acquisition of Osisko.

(c) Hutchinson tipped Cornish respecting this transaction.

(d) Although Hutchinson was not specifically aware of trading on her tip:

(i) Between April 14, 2014 and April 15, 2014, Caruso accumulated 70,000 Osisko shares in total between his Q Capital and personal Canadian brokerage accounts. On the announcement date, Caruso sold his shares for a profit of $27,200.

(e) Hutchinson received a few thousand dollars from Cornish for her tip respecting this transaction.

Tim Hortons

(a) On August 26, 2014, Burger King Worldwide, Inc. ("**Burger King**") announced that they agreed to acquire Tim Hortons Inc. ("**Tim Hortons**") for approximately $89.32 per share, through a combination of cash, and stock of the newly formed, corporate entity (the value was based on Burger King's August 22, 2014 closing price). Prior to the announcement, the transaction was confidential and had not been generally disclosed.

(b) On February 24, 2014, the Law Firm was retained by Burger King.

(c) Hutchinson tipped Cornish respecting this transaction. Although she was not specifically aware of the trading of others with respect to this transaction:

(i) Between February 25, 2014 and September 11, 2014, Caruso, through his net accumulation of call option contracts and share purchases in Tim Hortons, made profits of approximately $1.29M U.S. in the Q Capital account, and $128,000 in his Canadian brokerage accounts.

(ii) Through his institutional trading account at the Toronto Brokerage, Cornish made a net accumulation of 3,500 Tim Hortons shares prior to the takeover announcement. After the public announcement, Cornish sold those shares for an approximate $128,012 trading profit in his institutional trading account.

(d) Hutchinson received cash in a number of payments totalling approximately $7,000 from Cornish.

Xtreme Drilling and Coil Services Corp.

(a) On April 27, 2016, Schlumberger Limited ("**Schlumberger**") publicly announced their definitive agreement to acquire XSR Coiled Tubing Services Segment from Xtreme Drilling and Coil Services Corp. ("**Xtreme**") for approximately $205M.

(b) The Law Firm was retained by Schlumberger on May 6, 2015.

(c) Hutchinson tipped Cornish respecting this transaction.

(d) Cornish told Hutchinson that "they" did not make any money on this deal.

(e) Between October 5, 2015 and April 26, 2016, Caruso through his Q Capital account, his Riverview Capital brokerage account and personal brokerage accounts accumulated over 140,000 Xtreme shares. Caruso sold these shares after the announcement and realized a profit of over $30,000.

(f) Hutchinson did not receive any compensation respecting this transaction.

C. Mitigating Factors

13. Staff note that in agreeing to the terms set out below, the Respondent has been granted substantial credit for cooperation, including the agreement to cooperate in the future by testifying for Staff as set out in paragraph 17 of this Settlement Agreement. Staff and the Respondent agree that the following are mitigating factors:

(a) The Respondent has acknowledged her involvement in this matter. The Commission will not have to expend any further resources in having to establish liability against her.

(b) The Respondent lost her position as a legal assistant. The Respondent is unemployed and without resources to pay monetary sanctions.

(c) The Respondent was manipulated by Cornish. He was an experienced trader who knew the value of the information to which Hutchinson was privy. He also knew how to use that information to enable his close friends to profit and to share those profits with him as well as trading on the information himself. At the same time, he failed to disclose the profits earned by him and others while only sharing relatively small sums with the Respondent compared to the profits earned by the co-respondents.

(d) The Respondent has no prior record of breaching Ontario securities law.

(e) The Respondent is not and has never been a registrant.

PART IV – CONTRAVENTIONS OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

14. By engaging in the conduct described above, Hutchinson admits and acknowledges that she breached Ontario securities law by contravening subsection 76(2) of the *Securities Act*, RSO 1990, c S.5 (the "**Act**").

PART V – TERMS OF SETTLEMENT

15. The Respondent agrees to the terms of settlement set out below.

16. The Respondent consents to the Order, pursuant to which it is ordered that:

(a) this Settlement Agreement be approved;

(b) the Respondent be reprimanded;

(c) trading by the Respondent in any securities and derivatives cease for a period of two years commencing on the date of the Order, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which the Respondent has legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;

(d) the acquisition of any securities by the Respondent is prohibited for a period of two years, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the *Income Tax Act* (Canada)) in which the Respondent has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;

(e) any exemptions contained in Ontario securities law do not apply to the Respondent for two years;

(f) the Respondent resign any position she holds as a director or officer of any issuer, registrant or investment fund manager;

(g) the Respondent is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for two years; and

(h) the Respondent is prohibited from becoming or acting as a registrant, investment fund manager or promoter for two years.

17. Hutchinson will cooperate with Staff in its investigation including testifying as a witness for Staff in any proceedings commenced or continued by Staff of the Commission relating to the matters set out herein and meeting with Staff in advance of that proceeding to prepare for that testimony.

18. The Respondent acknowledges that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondent. The Respondent should contact the securities regulator of any other jurisdiction in which the Respondent intends to engage in any securities - or derivatives - related activities, prior to undertaking such activities.

19. The Respondent undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub paragraphs 16(c), (d), (e), (f), (g) and (h) above. These sanctions may be modified to reflect the provisions of the relevant provincial or territorial law.

PART VI – FURTHER PROCEEDINGS

20. If the Commission approves this Settlement Agreement, Staff will not commence or continue any proceeding against the Respondent under Ontario securities law based on the misconduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any term in this Settlement Agreement, in which case Staff may bring proceedings under Ontario securities law against the Respondent that may be based on, among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

21. The Respondent acknowledges that, if the Commission approves this Settlement Agreement and the Respondent fails to comply with any term in it, the Commission is entitled to bring any proceedings necessary.

22. The Respondent waives any defences to a proceeding that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

23. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's Rules of Procedure, adopted October 31, 2017.

24. The Respondent will attend the Settlement Hearing in person.

25. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

26. If the Commission approves this Settlement Agreement:

    (a) the Respondent irrevocably waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and

    (b) the parties will not make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

27. Whether or not the Commission approves this Settlement Agreement, the Respondent 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 be available.

PART VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

28. If the Commission does not make the Order:

    (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing will be without prejudice to Staff and the Respondent; and

    (b) Staff and the Respondent 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 in respect of the Proceeding. 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.

29. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

30. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

31. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Puerto Vallarta, this 20th day of April, 2018.

"Maria Magdalena Amarillas"
Witness: (print name):

"Donna Hutchinson"
Donna Hutchinson

DATED at Toronto, Ontario, this 20th day of April, 2018.

STAFF OF THE ONTARIO SECURITIES COMMISSION

By: *"Jeff Kehoe"*
Jeff Kehoe
Director, Enforcement Branch

SCHEDULE "A"

FILE NO.: 2017-54

IN THE MATTER OF
DONNA HUTCHINSON,
CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDERS and
PATRICK JELF CARUSO

Janet Leiper, Commissioner and Chair of the Panel
Deborah Leckman, Commissioner
Robert P. Hutchison, Commissioner

April ___, 2018

ORDER
Section 127 of the *Securities Act*, RSO 1990, c S.5

WHEREAS on April ___, 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 the approval of a settlement agreement dated April ___, 2018 (the **Settlement Agreement**) between Donna Hutchinson (the **Respondent**) and Staff of the Commission (**Staff**);

ON READING the Statement of Allegations dated September 21, 2017 and the Settlement Agreement and on hearing the submissions of representatives of Staff and the Respondent;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;

2. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

3. trading by the Respondent in any securities and derivatives cease for a period of two years, pursuant to paragraph 2 of subsection 127(1) of the Act commencing on the date of the Order, except that trading shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which the Respondent has legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time she opens or modifies these accounts;

4. the acquisition of any securities by the Respondent is prohibited for a period of two years, pursuant to paragraph 2.1 of subsection 127(1) of the Act commencing on the date of the Order, except that the acquisition of securities shall be permitted in mutual fund, exchange-traded fund or index fund securities for the account of any registered retirement savings plans, tax-free savings accounts and self-directed retirement savings plans (as defined by the *Income Tax Act* (Canada)) in which the Respondent has sole legal and beneficial ownership, and such trading is carried out through a registered dealer in Canada to whom she must give a copy of this Order at the time he opens or modifies these accounts;

5. any exemptions contained in Ontario securities law do not apply to the Respondent for a period of two years, pursuant to paragraph 3 of subsection 127(1) of the Act;

6. the Respondent shall resign any position she holds as a director or officer of an issuer, registrant or investment fund manager, pursuant to paragraphs 7, 8.1, and 8.3 of subsection 127(1) of the Act commencing on the date of the Order;

7. the Respondent is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for a period of two years, pursuant to paragraph 8, 8.2 and 8.4 of subsection 127(1) of the Act; commencing on the date of the Order; and

8. the Respondent is prohibited from becoming or acting as a registrant, investment fund manager or a promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act commencing on the date of the Order.

Janet Leiper

Deborah Leckman

Robert P. Hutchison

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Mackenzie Financial Corporation – ss. 127(1), 127.1

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION

ORAL REASONS FOR APPROVAL OF A SETTLEMENT
(Subsection 127(1) and 127.1 of the *Securities Act*, RSO 1990, c S.5)

Citation: *Mackenzie Financial Corporation (Re)*, 2018 ONSEC 17
Date: 2018-04-16
File No.: 2018-15

Hearing:	April 6, 2018	
Decision:	April 6, 2018	
Panel:	Janet Leiper	Commissioner and Chair of the Panel
	William J. Furlong	Commissioner
Appearances:	Michelle Vaillancourt Jamie Gibson	For Staff of the Commission
	Jeff Galway Brittany Shamess	For Mackenzie Financial Corporation

ORAL REASONS FOR APPROVAL OF A SETTLEMENT
(Subsection 127(1) and 127.1 of the *Securities Act*, RSO 1990, c S.5)

The following reasons have been prepared for publication in the Ontario Securities Commission Bulletin, based on the transcript of the reasons delivered orally in the hearing, and as edited and approved by the Panel, to provide a public record.

[1] The Panel would like to begin by thanking counsel for completing the settlement agreement and for their helpful submissions and thoroughness in dealing with the matter.

[2] On April 4, 2018 the Ontario Securities Commission (the **Commission**) issued a Notice of Hearing to consider whether it is in the public interest for the Commission to make certain orders in respect of Mackenzie Financial Corporation (**Mackenzie**).

[3] Mackenzie is registered with the Commission as, among other things, an Investment Fund Manager. Mackenzie's investment fund products (**Mackenzie Products**) are distributed to investors by dealing representatives registered with participating dealers, both third party and affiliated dealers.

[4] Between May 2014 and December 2017, Mackenzie failed to comply with National Instrument 81-105 *Mutual Funds Sales Practices* and failed to meet the minimum standards of conduct expected of industry participants in relation to certain sales practices. 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 the combined operation of National Instrument 81-105 and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and did not maintain adequate books, records and other documents to demonstrate Mackenzie's compliance with National Instrument 81-105.

[5] The parties recommend settlement of the proceeding against Mackenzie on the following terms, which were the subject of a settlement agreement and which we approve:

a. Mackenzie shall be reprimanded pursuant to paragraph 6 of subsection 127(1) of the Act[1];

b. Mackenzie shall 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 of the settlement agreement and to the satisfaction of the Commission;

c. Mackenzie shall pay an administrative penalty in the amount of $900,000 to the Commission; and

d. Mackenzie shall pay costs of the investigation by the Commission in the amount of $150,000.

[6] For the reasons that follow, we will approve this settlement and make the order in the terms it contemplates.

[7] Settlement proceedings serve the public interest in resolving regulatory proceedings efficiently, thus using enforcement resources prudently. Settlements allow registrants to have an opportunity to cooperate and demonstrate a willingness to redress regulatory breaches. This contributes to investor protection and to the integrity of public markets. Having regard to the conduct, the mitigating factors and prior regulatory decisions, we have concluded that the proposed settlement is reasonable and appropriate.

[8] In particular, Mackenzie has admitted and acknowledged the following:

a. during the period from May 2014 to October 2017, Mackenzie provided excessive non-monetary benefits to dealing representatives which were not in compliance with section 5.6 of National Instrument 81-105 resulting in a breach of section 2.1 of National Instrument 81-105. Examples of non-monetary benefits provided to dealing representatives included:

   (i) Golf and dinner events ranging in value from $839 to $1,149;

   (ii) Tickets to professional sporting and entertainment events ranging in value from $608 to $981; and

   (iii) Promotional and non-promotional Items ranging in value from $181 to $452.

b. during the period from September 2015 to December 2017, on 102 occasions 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 National Instrument 81-105, resulting in a breach of section 2.1 of National Instrument 81-105. Examples of non-monetary benefits to participating dealers included:

   (i) $5,000 for room rental and lunch for 42 dealing representatives attending a dealer event in Whistler, British Columbia

   (ii) $10,000 for lunch, room rental and a speaker for 66 dealing representatives attending a dealer event in Grand Bend, Ontario; and

   (iii) $21,859 for a cocktail reception for 330 dealing representatives attending a dealer event in Montreal, Quebec.

c. at the six conferences Mackenzie held during the period from November 2014 to May 2015, Mackenzie did not comply with subsection 5.2(e) and section 5.6 of National Instrument 81-105 by providing excessive non-monetary benefits to dealing representatives through the gifting of iPad minis (valued at approximately $343) and the provision of certain dinners (in one case at a cost of nearly $500 per person), resulting in a breach of section 2.1 of National Instrument 81-105;

d. during the period from May 2014 to October 2017, Mackenzie failed to establish and maintain adequate systems of controls and supervision around its sales practices to ensure compliance with section 2.1 and Part 5 of National Instrument 81-105, in breach of section 32(2) of the Act and section 11.1 of National Instrument 31-103; and

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

[1] *Securities Act*, RSO 1990, c S.5.

[9] We provide the foregoing detail in our reasons to provide guidance so that members of the industry might better understand the appropriate activity that is consistent with the sales practice limitations found in National Instrument 81-105.

[10] Commissioner Anisman discussed the policy behind the sales practice limitations found in National Instrument 81-105 in the recent *Sentry*[2] settlement hearing as follows:

> Such payments and gifts may influence registered representatives to consider factors other than the best interests of their clients when recommending investments to them. National Instrument 81-105 was adopted to prohibit payments and gifts that are likely to have this effect in an attempt to ensure that registered representatives who sell mutual funds act in the best interests of their clients on the basis of the clients' investment objectives and circumstances and the merits of the investments they recommend, without being influenced by conflicting monetary or other inducements.

[11] As in *Sentry*, a second regulatory issue arose here, that being the obligation of registrants to establish appropriate policies and procedures to ensure that they comply with their regulatory obligations.[3]

[12] The seriousness of the conduct in this case arises from the length of time that the practices took place, the number of dealing representatives involved and the policy failings that permitted these practices. In particular, the holding of expensive golf events after Staff had advised Mackenzie of the issue, is an aggravating feature. These factors all support the significant administrative penalty being recommended.

[13] In Mackenzie's favour, there have been a number of mitigating factors in the form of ongoing substantial remediation prior to these proceedings. In 2016, Mackenzie implemented new customer relationship management software to improve its supervision and control of its sales practices. In September 2017, Mackenzie retained an independent consultant, to assess its controls. The Consultant made a number of recommendations in October 2017, which Mackenzie is now implementing.

[14] In addition, Mackenzie has cooperated with Staff in connection with their investigation of the matters referred to in the settlement agreement. Mackenzie has no disciplinary history with the Commission and further Mackenzie has advised Staff of the following:

a. Mackenzie, not Mackenzie Products, paid for for the monetary and non-monetary benefits;

b. the performance of Mackenzie Products has not been impacted by these matters;

c. the management expense ratios of the Mackenzie Products were not affected by the monetary and non-monetary benefits that were paid to dealing representatives; and

d. Mackenzie, not the Mackenzie Products, will pay costs, fines, and expenses related to the resolution of the matters described in the settlement agreement.

[15] The settlement agreement provides for ongoing review, testing and feedback from the Consultant to Mackenzie, and in that respect these are proactive and appropriate measures.

[16] The settlement agreement, which we have approved, includes a reprimand of Mackenzie. To the representative of Mackenzie who is here today, Mr. McInerney, this is a symbolic reprimand given that it is being issued against the company, which you may now consider hereby administered.

[17] We approve the settlement and make the order requested by the parties.

Approved by the Panel on this 16th day of April, 2018.

"Janet Leiper"

"William J. Furlong"

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2 *Sentry (Re)*, 2017 ONSEC 7 at para 2; (2017) 40 OSCB 3435 [***Sentry***].

3 *Ibid* at para 3.

3.1.2 Pro-Financial Asset Management Inc. et al. – ss. 127(1), 127.1

IN THE MATTER OF
PRO-FINANCIAL ASSET MANAGEMENT INC.,
STUART MCKINNON and
JOHN FARRELL

REASONS AND DECISION ON SANCTIONS AND COSTS
(Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

Citation: Pro-Financial Asset Management (Re), 2018 ONSEC 18

Date: 2018-04-23

Hearing:	February 14, 2018	
Decision:	April 23, 2018	
Panel:	AnneMarie Ryan	Commissioner and Chair of the Panel
	Timothy Moseley	Vice-Chair
	Janet Leiper	Commissioner
Appearances:	Derek Ferris Catherine Weiler	For Staff of the Commission
	Andrew McCoomb	For Stuart McKinnon
	No one appearing on behalf of Pro-Financial Asset Management Inc.	

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REASONS AND DECISION ON SANCTIONS AND COSTS

I. INTRODUCTION

[1] In a decision issued on April 20, 2017[1] (the **Merits Decision**), a panel of the Commission (the **Merits Panel**) found that the respondents Pro-Financial Asset Management Inc. (**PFAM**) and Stuart McKinnon (**McKinnon**) committed various breaches of Ontario securities law. These included PFAM's failure to deal fairly, honestly and in good faith with its clients, and its failure to establish, maintain and apply policies and procedures that would establish an adequate system of controls and supervision. The Merits Panel also found that McKinnon breached his obligations as PFAM's Ultimate Designated Person (**UDP**), and, as a director and officer of PFAM, authorized, permitted or acquiesced in PFAM's breaches.[2]

[2] One of the most serious findings against PFAM and McKinnon arose out of PFAM's role in the distribution of nine series of principal protected notes (**PPNs**), on behalf of two banks. PFAM's conduct resulted in a deficiency of $1,222,549.45 (the **PPN Deficiency**) owing to holders of the PPNs (the **Noteholders**).

[3] For the reasons set out below, we conclude that PFAM's and McKinnon's breaches were serious, that they obtained $1,181,397.89 as a result of those breaches, and that it would therefore be in the public interest to:

a. require them to disgorge $1,181,397.89;

b. impose on each of them an administrative penalty of $200,000;

c. prohibit them from participating in the capital markets for 10 years; and

d. require them to pay, on a joint and several basis, costs of $487,950.34.

II. FACTUAL BACKGROUND AND HISTORY OF THE PROCEEDING

[4] PFAM was incorporated in Ontario[3] and was registered as an exempt market dealer, and as an investment counsel and portfolio manager.[4] McKinnon was President and Chief Executive Officer of PFAM and was registered as a dealing representative and UDP. McKinnon was the directing mind and indirect owner of PFAM since its incorporation.

[5] PFAM's registration as an exempt market dealer and McKinnon's registration as a dealing representative were suspended on May 17, 2013 pursuant to a Commission order. McKinnon continued to be registered as UDP and an approved officer and director until February 27, 2015 when PFAM's registration as a portfolio manager was also suspended pursuant to a Commission order.

[6] The Commission issued a Notice of Hearing in 2014 in connection with Staff's Statement of Allegations, which alleged that PFAM and McKinnon had committed a number of breaches of Ontario securities laws.

[7] John Farrell, PFAM's Chief Compliance Officer (**CCO**), was also named as a respondent. Farrell entered into a Settlement Agreement with Staff, which was approved by the Commission on June 26, 2015.

[8] A merits hearing with the remaining respondents, PFAM and McKinnon, was held in 2016, and resulted in the Merits Decision issued on April 20, 2017.

[9] On November 16, 2017, the date that had been set for the sanctions and costs hearing, McKinnon brought two motions: first, for an order that a part of the sanctions and costs hearing be held in the absence of the public; and second, for an adjournment of the hearing. Following submissions, we dismissed the first motion and granted the second. Our reasons for these decisions are also set out below.

[10] The sanctions and costs hearing proceeded on February 14, 2018. McKinnon was represented by counsel and PFAM did not appear.

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1 *Re Pro-Financial Asset Management et al* (2017), 40 OSCB 3903, 2017 ONSEC 9.

2 Prior to September 28, 2009, "Ultimately Responsible Person".

3 PFAM was incorporated under the name Pro-Hedge Funds Inc. in 2002. It changed its name to Pro-Financial Asset Management Inc. on January 17, 2006.

4 PFAM was registered as an exempt market dealer from September 2009 to May 2013 (previously as a limited market dealer from January 2004 to September 2009). The firm was also registered as an investment counsel and portfolio manager from October 2005 to September 2009, then as an adviser in the category of portfolio manager until February 2015. As of February 2015, PFAM was not registered in any capacity.

III. PRELIMINARY MOTIONS

A. McKinnon's Motion that a Part of the Sanctions and Costs Hearing Be Held in the Absence of the Public

1. The Nature of the Motion

[11] McKinnon asked that a part of the sanctions and costs hearing be held in the absence of the public. The *Statutory Powers Procedure Act* (**SPPA**)[5] and the Ontario Securities Commission *Rules of Procedure and Forms* (**Rules of Procedure**)[6] contemplate that, where intimate financial or personal or other matters are involved, such an order may be made as an exception to the general requirement that hearings take place in public.

[12] McKinnon filed written submissions in which he asserted that he has few assets, no income and significant liabilities. Staff filed an affidavit in response, questioning these assertions.

[13] McKinnon responded by providing for our review an affidavit that described his finances in greater detail. McKinnon did not formally file the affidavit, pending our ruling on his motion, which asked that certain parts of the affidavit, if filed, be kept confidential and not be made part of the public record. The portions over which that protection was sought contained information regarding McKinnon's financial liabilities and his relationship with various family members.

[14] McKinnon also asked us to receive a part of Staff's affidavit in the absence of the public. Staff's affidavit briefly described an agreement relating to the transfer of assets and advisors from Legacy Investment Management Inc. (of which McKinnon is a principal) to De Thomas Financial Corp., and included, as an exhibit, a copy of the agreement. Staff relied on the existence of the agreement to challenge McKinnon's assertion that he is not earning income, and that he is therefore limited in his ability to satisfy any monetary sanctions or costs orders.

2. Analysis

[15] The open court principle is a central characteristic of justice in Canada, and applies to administrative proceedings, including those before the Commission. Clause 9(1)(b) of the SPPA provides that hearings are open to the public except where the tribunal is of the opinion that:

> intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.[7]

[16] As the Commission has previously held, the principle that hearings should be open to the public is fundamental. It promotes public confidence in the proceedings of an administrative tribunal such as the Commission.[8]

[17] McKinnon acknowledged that principle. However, he submitted that, in this case, the desirability of adhering to it is outweighed by the desirability of protecting his interests through the requested confidentiality order. McKinnon asserted that persons adverse in interest to him might make strategic use of detailed information about his and his family members' finances. He did not identify any other prejudice that would be caused by public disclosure of this information.

[18] Staff submitted that McKinnon's general assertion of potential harm failed to meet the necessary standard for departing from the principle of open proceedings. We agreed. McKinnon's financial position has obvious potential relevance to our decision as to both sanctions and costs. This relevance, combined with the important public interest in transparency, outweighed the non-specific and unsubstantiated potential harm that McKinnon relied on.

[19] We therefore concluded that McKinnon failed to establish a basis for applying the exception in clause 9(1)(b) of the SPPA, and we dismissed his motion.

B. McKinnon's Motion to Adjourn the Sanctions and Costs Hearing

[20] The sanctions and costs hearing was originally scheduled to proceed on November 16, 2017. McKinnon requested an adjournment in order to prepare a proper response to Staff's affidavit referred to in paragraph [12] above. Staff's

5 RSO 1990, c S.22.

6 (2017), 40 OSCB 8988.

7 SPPA, s 9(1)(b).

8 *Re HudBay Minerals Inc.* (2009), 32 OSCB 4427, 2009 ONSEC 18 at para 22.

affidavit was delivered to McKinnon late in the day on November 14, 2017. We considered McKinnon's motion against the backdrop of the events leading up to the motion, which are as follows.

[21] Staff delivered its initial written submissions on sanctions and costs in June 2017. By order dated August 23, 2017, the sanctions and costs hearing was set for November 16. At an interlocutory hearing on September 28, McKinnon's counsel agreed to deliver submissions by October 20, and Staff agreed to deliver any reply materials by November 10.

[22] On October 20, McKinnon's counsel advised that he would be unable to deliver submissions that day, but that he expected to do so by October 25. Staff did not object.

[23] On October 25, McKinnon's counsel advised of an additional delay, due to a medical emergency in McKinnon's family. Counsel proposed to deliver submissions by November 9. Staff agreed to the requested extension, although noted its position that the sanctions and costs hearing should proceed on November 16 as scheduled.

[24] McKinnon delivered his written submissions in the late afternoon on November 9. The submissions included information about McKinnon's net worth and about a 2013 transaction that contributed to "the loss of" McKinnon's client assets, as well as a statement that McKinnon "has had not one client complaint" during his more than two decades as a registered financial advisor.

[25] No evidence was filed or referred to in support of those assertions.

[26] On the evening of November 14, Staff delivered the affidavit of Michael Denyszyn, a Manager in the Commission's Compliance and Registrant Regulation (**CRR**) Branch. That affidavit, which is six pages long and attaches nine exhibits, challenged McKinnon's assertions, referred to in paragraph [12] above, about his ability to pay sanctions or costs.

[27] Early the following day, McKinnon's counsel advised the Commission's Registrar that he would be seeking an adjournment of the hearing, in order to prepare a proper response to the Denyszyn affidavit.

[28] At the hearing on November 16, Staff opposed the adjournment request, citing sub-rule 29(1) of the Rules of Procedure, which provides that a sanctions hearing "shall proceed on the scheduled date unless a Party satisfies a Panel that there are exceptional circumstances requiring an adjournment." That rule sets an appropriately high bar for a party seeking an adjournment. We were satisfied that there were exceptional circumstances justifying the adjournment.

[29] In reaching that conclusion, we considered the following factors:

a. the principal delay in the original schedule was caused by unforeseen circumstances, *i.e.*, McKinnon's family medical emergency;

b. there was no suggestion that McKinnon deliberately delayed or tried to manipulate the process;

c. the sanctions and costs hearing might result in serious consequences for McKinnon, including substantial financial sanctions and lengthy bans from participation in the capital markets;

d. McKinnon needed more time to respond, including regarding whether he was continuing to earn compensation;

e. the Commission has an interest in making its decision based on a complete factual record; and

f. there would be no appreciable prejudice to Staff as the result of an adjournment.

[30] Taking all of those factors into account, we concluded that the public interest in proceeding expeditiously was outweighed by the need to ensure fairness to McKinnon. We adjourned the hearing to the earliest date on which McKinnon, all counsel and members of the panel were available.

IV. FINDINGS IN THE MERITS DECISION

[31] The Merits Panel found that PFAM and McKinnon committed a number of breaches of Ontario securities law.

[32] The most serious of the breaches related to the administration and distribution of nine series of PPNs. PPNs are investment products, usually issued by a bank, that promise to repay, at a minimum, the capital invested if the note is held to maturity. Noteholders can sell their PPNs prior to maturity (referred to as early redemption) on a secondary market provided by the issuing bank.

[33] PFAM entered into agreements with two banks to provide advisory, marketing, distribution and other services in relation to PPNs. Pursuant to those agreements, PFAM acted as the intermediary between investors and the banks, processing orders and funds from investors to the banks, and transferring funds from the banks back to investors at redemption or maturity. In its role as intermediary, PFAM was required to maintain books and records relating to the PPNs. In December 2012, PFAM realized that it had a shortfall of more than $500,000 in the funds that were due to investors for the maturity of the third of nine series of PPNs. Subsequent analysis across all series of PPNs showed a net deficiency of $1.2 million. The Merits Panel found that PFAM breached its duty to act fairly, honestly and in good faith with clients, contrary to OSC Rule 31-505 *Conditions of Registration* (**Rule 31-505**), as evidenced by the following:

a. submission of unsupported redemption requests;

b. mishandling of redemption payments;

c. failure to account for monies in the PFAM trust account;

d. deficiencies in record-keeping for PPNs; and

e. failure to investigate and communicate the PPN Deficiency.

[34] The Merits Panel found that "McKinnon's attitude with respect to funds held in trust was completely improper."[9] It also found that "McKinnon's complete denial of any knowledge of the problems relating to the PPNs before December 2012 [was] not credible."[10]

[35] The Merits Panel also concluded that:

a. PFAM failed to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances and, in doing so, breached the standard of care for investment fund managers, contrary to clause 116(b) of the *Securities Act*[11] (the **Act**);

b. PFAM failed to maintain the minimum working capital required of a registered firm and failed to report its capital deficiency, contrary to section 12.1 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**);

c. PFAM failed to keep satisfactory books, records or other documents, contrary to subsection 19(1) of the Act and sections 11.5 and 11.6 of NI 31-103;

d. PFAM failed to establish, maintain and apply policies and procedures that establish an adequate system of controls and supervision, contrary to subsection 32(2) of the Act and section 11.1 of NI 31-103;

e. McKinnon, as a director and officer of PFAM, authorized, permitted or acquiesced in PFAM's breaches set out in (a) through (d) above, and in paragraph [33] above, and is therefore liable pursuant to section 129.2 of the Act;

f. McKinnon breached his obligations as UDP of PFAM, contrary to section 5.2 of NI 31-103; and

g. PFAM and McKinnon's conduct was contrary to the public interest.

V. LEGAL FRAMEWORK FOR SANCTIONS

[36] Subsection 127(1) of the Act lists the sanctions that the Commission may impose where it finds that it is in the public interest to do so. The Commission must exercise this jurisdiction in a manner consistent with the purposes set out in section 1.1 of the Act:

(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.

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9 Merits Decision at para 112.

10 Merits Decision at para 120.

11 RSO 1990, c S.5.

[37] In making public interest orders under section 127 of the Act, the Commission exercises its jurisdiction in a protective manner to prevent likely future harm to Ontario's capital markets.[12] The Supreme Court of Canada has endorsed this approach, stating that:

> The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets.[13]

[38] The Commission has identified a non-exhaustive list of the factors to be considered with respect to sanctions generally, including the following, which we regard as being particularly relevant to this case:

a. the seriousness of the allegations;

b. the respondent's experience in the marketplace;

c. the level of a respondent's activity in the marketplace;

d. whether or not there has been a recognition of the seriousness of the improprieties;

e. whether or not the sanctions imposed may serve to deter not only those involved in the case being considered, but any like-minded people from engaging in similar abuses of the capital markets;

f. any mitigating factors;

g. whether the violations are isolated or recurrent; and

h. the effect any sanction might have on the livelihood of a respondent.[14]

[39] With respect to the fifth of those factors, *i.e.*, specific and general deterrence, the Supreme Court of Canada has recognized that sanctions should be designed to discourage or hinder like behaviour in others and that the "weight given to general deterrence will vary from case to case and is a matter within the discretion of the Commission."[15]

[40] The Commission has also recognized that the sanctions imposed must be appropriate and proportionate to the circumstances of the case and the conduct of each respondent.[16]

[41] In addition, as emphasized by the Supreme Court of Canada, "[n]o one factor should be considered in isolation because to do so would skew the textured and nuanced evaluation conducted by the Commission in crafting an order in the public interest."[17] Further, the Commission has recently noted that "[g]iven the highly contextual nature of these various factors, sanctioning precedents, while helpful, may be of limited value when the Commission determines the appropriate mix of sanctions for a particular respondent."[18]

VI. FINANCIAL SANCTIONS

A. Introduction

[42] As we discussed above, we granted McKinnon's request for an adjournment of the sanctions and costs hearing so that, among other things, McKinnon would have an opportunity to respond to Staff's evidence regarding McKinnon's and his family's financial circumstances.

[43] At the sanctions and costs hearing, McKinnon adduced no documentary or oral evidence with respect to that issue. Following his counsel's closing submissions, McKinnon delivered an unsworn oral statement, in which, among other things, he stated that he "put everything [he] had into trying to turn PFAM around",[19] and that the resulting financial hardship has been significant and stressful.

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12 *Re Mithras Management Ltd.* (1990) 13 OSCB 1600 at 1610-1611.

13 *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission),* 2001 SCC 37 at para 43.

14 *Re Belteco Holdings Inc*. (1998), 21 OSCB 7743 at 7746; *Erikson v Ontario (Securities Commission),* [2003] OJ No 593 (Div Ct) (***Erikson***) at para 58; *Re MCJC Holdings Inc.* (2002), 25 OSCB 1133 at 1135; *Re MCJC Holdings Inc.* (2003), 26 OSCB 8206 at para 55.

15 *Re Cartaway Resources Corp.,* 2004 SCC 26 (***Cartaway***) at para 64.

16 *Re Bradon Technologies Ltd.* (2016), 39 OSCB 4907, 2016 ONSEC 9 at para 28.

17 *Cartaway* at para 64.

18 *Re Quadrexx Hedge Capital Management Ltd.* (2018), 41 OSCB 1023, 2018 ONSEC 3 at para 20 (***Quadrexx***).

19 Transcript, p 145, lines 12-13.

[44] Staff suggested at the motions hearing in November 2017 that McKinnon may still be receiving, or may be entitled to receive, compensation relating to his previous business. Neither Staff nor McKinnon explored that issue at the sanctions and costs hearing, and we are therefore not in a position to make any relevant findings. Similarly, we have no evidentiary basis on which to draw conclusions in McKinnon's favour about his inability to pay financial sanctions or costs.

[45] We now turn to consider whether it would be in the public interest to order disgorgement and/or the payment of administrative penalties.

B. Disgorgement

1. Introduction

[46] Paragraph 10 of subsection 127(1) of the Act authorizes the Commission to require a person who has not complied with Ontario securities law "to disgorge to the Commission any amounts obtained as a result of the non-compliance." Staff submits that PFAM obtained $1,181,397.89 as a result of the unsupported redemption requests and the failure to account for monies flowing into and out of the trust account, in contravention of PFAM's obligation to deal fairly, honestly and in good faith with its clients, as set out in section 2.1 of Rule 31-505.[20]

[47] Staff therefore seeks an order requiring PFAM and McKinnon to disgorge the $1,181,397.89, on a joint and several basis. For the following reasons, we will make that order.

2. Legal Framework

[48] Staff and McKinnon agree that, as the Commission has previously held, the purposes of a disgorgement order are to ensure that respondents do not benefit from their breaches of the Act, and to deter the respondents and others from engaging in similar misconduct.[21]

[49] So that these purposes may be achieved, a disgorgement order is not limited to profit made, funds retained, or a net amount calculated by taking expenses or other deductions into account. The words "any amounts obtained" in the Act do not imply or compel any such limitation; rather, they make a respondent potentially liable to disgorge the total of all funds received as a result of non-compliance. As the Superior Court of Justice (Divisional Court) has held, such an approach is "consistent with the plain wording of the legislation, the purpose of the legislation and prior case law",[22] especially given the importance of deterrence.

[50] While the Commission is authorized to order disgorgement of the full amount obtained, it need not do so. The Commission has set out various factors that it will take into account in determining whether a disgorgement order is appropriate, and if so, in what amount:

a. whether an amount was obtained by a respondent as a result of the non-compliance with Ontario securities law;

b. the seriousness of the misconduct and whether investors were seriously harmed;

c. whether the amount that a respondent obtained as a result of the non-compliance is reasonably ascertainable;

d. whether the individuals who suffered losses are likely to be able to obtain redress; and

e. the deterrent effect of a disgorgement order on the respondents and on other market participants.[23]

[51] McKinnon proposes a modification of the first of these factors. He points to the Commission's 2008 decision in *Limelight*, where immediately prior to specifying the above factors, the Commission stated:

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20 Merits Decision at para 103.

21 *Re Al-Tar Energy Corp.* (2011), 34 OSCB 447, 2011 ONSEC 1 at para 71.

22 *Phillips v Ontario Securities Commission*, 2016 ONSC 7901 (Div Ct) (***Phillips DivCt***) at para 78, affirming *Re Phillips* (2015), 38 OSCB 617, 2015 ONSEC 36 (***Phillips OSC***); see also *Phillips DivCt* at para 71 on this point; see also *Re Limelight Entertainment Inc.* (2008), 31 OSCB 12030, 2008 ONSEC 28 (***Limelight***) at para 49.

23 *Phillips OSC* at para 31; *Limelight* at para 52.

> [T]he legal question is not whether a respondent "profited" from the illegal activity but whether the respondent "obtained amounts" as a result of that activity. In our view, this distinction is made in the Act to make clear that all money illegally obtained from investors can be ordered to be disgorged, not just the "profit" made as a result of the activity.[24] [emphasis added]

[52] McKinnon highlights the words "from investors" in the above quotation. In effect, he submits that the first factor listed above should read: "whether an amount was obtained by a respondent from investors as a result of the non-compliance with Ontario securities law". He notes that in this case, the money that PFAM received as a result of the unsupported redemption requests came from the banks rather than from the Noteholders. He submits that, as a result, no disgorgement order is warranted here.

[53] We do not accept this submission, for several reasons. First, the money obtained in *Limelight* did in fact come from investors, so the Commission's words simply conformed to the evidence. The Commission was not called upon to decide, and did not decide, whether a disgorgement order may extend to funds illegally obtained from sources other than investors. Second, it would be inconsistent with the purposes of a disgorgement order to immunize a respondent from exposure to such an order where a third party steps in to mitigate the harm suffered by the original investors. Third, McKinnon's submission is incompatible with the determination by the Superior Court of Justice (Divisional Court) that a disgorgement order may be appropriate "even where there is no loss to beneficiaries".[25]

[54] We therefore decline to adopt McKinnon's proposed modification. However, we do see this as an opportunity to refine the language used in describing the factors that inform the Commission's discretion as to what, if any, disgorgement order is made. In relation to the second factor, the Commission should take into account the seriousness of the misconduct and whether that misconduct resulted in serious harm, whether directly to original investors or otherwise.

[55] We would make two additional refinements, consistent with existing decisions:

a. The third factor should be described as whether the amount obtained as a result of the non-compliance can be reasonably ascertained. No reference should be made to a particular respondent. This accords with the Superior Court of Justice (Divisional Court)'s determination that a disgorgement order against a respondent is not limited to the amount obtained personally by that respondent.[26]

b. The fourth factor should be described as whether those who suffered losses are likely to be able to obtain redress. No previous decisions confine the scope of this factor to situations in which "individuals" have suffered losses. To so confine the scope of this factor would be inconsistent with the general principles underlying the disgorgement sanction.

[56] For these reasons, we restate the test as follows. When considering whether a disgorgement order is appropriate, and if so in what amount, the Commission should take into account the following non-exhaustive list of factors (with our refinements underlined for reference):

a. whether an amount was obtained by a respondent as a result of the non-compliance with Ontario securities law;

b. the seriousness of the misconduct and whether that misconduct caused serious harm, whether directly to original investors or otherwise;

c. whether the amount obtained as a result of the non-compliance is reasonably ascertainable;

d. whether those who suffered losses are likely to be able to obtain redress; and

e. the deterrent effect of a disgorgement order on the respondents and on other market participants.

3. Analysis

[57] We will now apply each of those factors to the circumstances of this case.

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24 *Limelight* at para 49.

25 *Pushka v Ontario Securities Commission*, 2016 ONSC 3041 (Div Ct) at para 251.

26 *North American Financial Group Inc. v Ontario Securities Commission,* 2018 ONSC 136 (Div Ct) at para 217.

(a) Did the respondents obtain an amount as a result of the non-compliance with Ontario securities law?

[58] Staff submits that PFAM obtained $1,181,397.89 as a result of its breach of section 2.1 of Rule 31-505 and therefore requests a disgorgement order in that amount. McKinnon challenges the request, both as to whether there should be a disgorgement order at all, and if so, in what amount.

[59] First, McKinnon submits, as noted above in paragraphs [51] and [52], that it is significant that the funds that PFAM received came from the banks, not from the investors. As we have explained, we reject that submission. The unsupported redemption requests by PFAM resulted in the banks giving PFAM monies that belonged to the Noteholders.

[60] Second, McKinnon submits that there is no evidence that he obtained any amount as a result of the non-compliance. It is true that we were not directed to any evidence to show that funds flowed directly to McKinnon from the unsupported redemption requests. However, as explained above, this is not a precondition to the imposition of a disgorgement order on him. As the Commission has held, the directing mind of an entity that obtains funds as a result of a contravention of Ontario securities law may be jointly and severally liable for the disgorgement of those funds.[27] As PFAM's directing mind, McKinnon may be held liable to disgorge any amount obtained by PFAM.

[61] We conclude that PFAM obtained funds as a result of its breach of Ontario securities law and that both it and McKinnon may be subject to a disgorgement order in respect of those funds.

(b) Seriousness of the misconduct and whether the misconduct caused serious harm

[62] In the Merits Decision, the Merits Panel found that PFAM "knowingly" and "dishonestly" made the unsupported redemption requests,[28] and that McKinnon directed these actions.[29] This deliberate misconduct was particularly serious, coming as it did from a senior and experienced registrant who was the firm's UDP.

[63] The misconduct jeopardized investors' funds to a significant extent. Most of the harm associated with the misconduct was later transferred from the investors to the banks, but the investors' funds were at risk in the meantime. The banks' ultimate intervention does not reduce either the seriousness of the conduct or the harm that resulted.

(c) Is the amount obtained as a result of the non-compliance reasonably ascertainable?

[64] McKinnon challenges the methodology used by Staff to calculate the amount sought.

[65] The Merits Panel did not, and was not required to, specify the amount that PFAM obtained as a result of the unsupported redemption requests. However, as the Merits Panel found, an analysis prepared by Staff's senior forensic accountant revealed that "approximately 11,814 units (approximately $1.2 million par value of PPNs) more than the number requested by Noteholders were redeemed by PFAM".[30]

[66] The amount of the disgorgement order sought by Staff ($1,181,397.89) is based on that finding in the Merits Decision, and not on the amount of the PPN Deficiency, which is $41,151.56 greater. As the Merits Panel found, unsupported redemption requests were the largest contributing factor to the PPN Deficiency, but other factors also contributed, including price differences resulting from the time elapsed between the date at which the price was fixed and the actual settlement date.[31] The extent to which the price differences contributed to the PPN Deficiency could not be accurately calculated, due to the poor state of PFAM's records.[32] Staff appropriately limits its disgorgement request to the lower and more reliable amount.

[67] Despite Staff's approach, McKinnon argues for a lower disgorgement amount (if we are to order disgorgement at all). He refers to a breakdown of the $1,222,549.45 PPN Deficiency, as contained in an April 2013 preliminary reconciliation report prepared for Staff by PFAM's former Chief Financial Officer.[33] According to that report, the PPN Deficiency consisted of:

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27 See, *e.g., Quadrexx* at para 46; *Phillips DivCt* at paras 77-78; *Limelight* at paras 59-60; *Re Blackwood & Rose Inc.* (2014), 37 OSCB 4699, 2014 ONSEC 12 at para 53.

28 Merits Decision at para 103.

29 Merits Decision at para 197.

30 Merits Decision at para 88.

31 Merits Decision at para 91.

32 Merits Decision at para 88.

33 Exhibit 38 in the merits hearing; Merits Decision at paras 85-87.

a. $566,839.26 attributable to the price differences referred to in paragraph [66] above;

b. $230,293.56 attributable to an "opening balance variance", *i.e.*, an unexplained difference, at the time of closing on the original distribution of the notes, between records held by IAS (PFAM's record-keeper) and those held by Concentra (the trustee and escrow agent); and

c. $425,416.63, the reasons for which could not be explained, because of the absence of reliable records.

[68] McKinnon submits that any disgorgement order should exclude at least the first of the three components,[34] since those funds were "passed onto investors as…overpayment". We disagree. Even if the deficiency arose in part because PFAM mistakenly overpaid certain investors, that error may have come at the expense of other investors. It does not change the fact that when it came time for the banks to satisfy the deficiency, the $566,839.26 was not available for that purpose. PFAM obtained the funds as a result of a contravention of Ontario securities law, and it does not matter how PFAM used the funds after they were obtained.[35]

[69] We are satisfied that the amount of funds that PFAM obtained, at a minimum, is reasonably ascertainable. We accept Staff's submission that the appropriate amount is $1,181,397.89.

(d) Are those who suffered losses likely to be able to obtain redress?

[70] In our view, the onus does not lie on Staff to demonstrate that victims of misconduct are unlikely to obtain redress. In many cases, that determination would be extremely difficult, and would impose a burden that is inconsistent with the Commission's investor protection mandate. Rather, if a respondent is able to show that those who suffered losses are likely to obtain redress, that might be an appropriate reason to reduce a disgorgement amount, or to choose not to order any disgorgement at all.

[71] Here, McKinnon does not go so far as to say that he has shown that the banks are likely to obtain redress. Having said that, we are advised that one bank has commenced an action against PFAM and McKinnon arising out of the PPN Deficiency, though that action is currently inactive, and the other bank has not commenced an action. However, PFAM is insolvent. McKinnon asserts that he has "lost effectively his entire net worth in relation to PFAM and its breaches."[36] We therefore have no reason to reduce the amount of a disgorgement order in the hope that those who suffered losses can obtain redress elsewhere.

(e) Deterrent effect on the respondents and others

[72] It is essential both for the protection of investors and for the promotion of confidence in the capital markets that those entrusted with investor money strictly adhere to sound practices that reflect the importance of that trust. Even if PFAM's difficulties began as record-keeping issues, the findings in the Merits Decision reveal that there were numerous opportunities along the way for McKinnon to recognize the seriousness of those issues and to take immediate steps to address them. Not only did McKinnon fail to do so, he knowingly and dishonestly caused PFAM to make the unsupported redemption requests.

[73] The sanctions in this case must demonstrate unequivocally, to the respondents and others, that such a response is unacceptable. In the circumstances of this case, only an order in the full amount obtained will adequately fulfill the need for specific and general deterrence.

(f) Conclusion

[74] McKinnon and PFAM's repeated, deliberate and dishonest conduct, and the need to deter them and others from engaging in similar conduct, outweigh any inclination we might have had to apply discretionary reduction in the amount of the disgorgement order. It is in the public interest for us to require the respondents, jointly and severally, to disgorge the sum of $1,181,397.89, being the full amount that PFAM received as a result of its contravention of section 2.1 of Rule 31-505.

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[34] In oral submissions, McKinnon's counsel cited the slightly higher amount of $425,418.74, which is the same as that shown in paragraph 62 of Staff's written submissions. However, the correct amount appears to be $425,416.63, as reflected in the reconciliation report.

[35] *Phillips OSC* at para 19.

[36] McKinnon's Written Submissions at para 63.

C. Administrative Penalty

1. Submissions

[75] Staff proposes an administrative penalty of $200,000 against each of McKinnon and PFAM. Staff argues that these administrative penalties are appropriate and proportionate due to the seriousness of the breaches and the fact that multiple breaches of different types occurred over a prolonged period of time.

[76] McKinnon requests that his administrative penalty be in the range of $25,000 to $50,000 since Farrell was required by the settlement agreement to pay an administrative penalty of only $25,000.

[77] McKinnon further submits that the $200,000 amount that Staff seeks is excessive, considering the impact that the failure of the PFAM business has had on his personal financial affairs.

2. Analysis

[78] The Commission has stated in previous decisions that the purpose of administrative penalties is to "deter the particular respondents from engaging in the same or similar conduct in the future and to send a clear deterrent message to other market participants that the conduct in question will not be tolerated in Ontario capital markets."[37] Thus, the Commission intends that administrative penalties will achieve both specific and general deterrence.

[79] In support of its position, Staff directed us to the administrative penalties imposed in several previous decisions. While no two cases are identical, these decisions bear useful similarities to this case. They address breaches of sections 19 and 116 of the Act and section 2.1 of Rule 31-505, and they provide a general reference point for the possible range of sanctions.

[80] *Sextant Capital Management Inc. (Re)*[38] involved a fraud related to improper payments of almost $7 million. The Commission found that the three individual respondents, all of whom were registrants, breached their duty to deal fairly, honestly, and in good faith with clients (contrary to section 2.1 of Rule 31-505) and their duties as investment fund managers (contrary to section 116 of the Act). The Commission found that one of the three individual respondents had committed fraud. No finding of fraud was made with respect to the other two, who were officers of the corporate respondent. The Commission imposed administrative penalties against these respondents of $250,000 and $50,000.

[81] *Norshield Asset Management Inc. (Re)*[39] involved a much greater amount lost by investors ($159 million) and the administrative penalties imposed were commensurate with the seriousness of the misconduct. The individual respondents Xanthoudakis and Smith were registrants who held positions as officers and directors and were the directing minds of the company. They communicated information to investors that was based on artificially inflated net asset values (**NAVs**), engaged in paper transactions to inflate NAVs, and preferred redemption requests for some investors over others. They were also generally unable to account for investors' funds as they did not have up-to-date or proper records. The misconduct, which led to significant losses for investors, was a breach of section 2.1 of Rule 31-505 and section 19 of the Act. The respondents were each ordered to pay administrative penalties of $1,000,000 for the breach of section 2.1 of Rule 31-505 and $1,000,000 for the breach of section 19 of the Act.

[82] In *Juniper Fund Management Corp. (Re)*,[40] the respondents were found to have committed various breaches of Ontario securities law pertaining to investment funds over a period of time. The Commission found that they failed to keep books and records necessary for the proper recording of its business transactions and financial affairs contrary to subsection 19(1) and section 116 of the Act. An aggravating factor was that the respondents did not take active steps to correct the inaccuracies in their records. An administrative penalty of $500,000 was ordered against the respondent Brown, on a joint and several basis with Juniper Fund Management.

[83] We do not accept McKinnon's position that any administrative penalty imposed on him should be similar to that imposed in the settlement with Farrell. First, Farrell's administrative penalty was agreed to in the context of a settlement, not a contested hearing. The sanctions imposed pursuant to a settlement agreement may be less severe than those that might have been imposed after contested merits and sanctions hearings.[41] Second, although Farrell held a senior role as CCO, McKinnon was the UDP and directing mind of PFAM; as such, he bore the ultimate responsibility to ensure that PFAM complied with Ontario securities law, and was ultimately responsible for the multiple breaches that spanned several years.

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37 *Limelight* at para 67.

38 (2012), 35 OSCB 5213, 2012 ONSEC 17 (***Sextant***).

39 (2010), 33 OSCB 7171, 2010 ONSEC 16 (***Norshield***).

40 (2015), 38 OSCB 1679, 2015 ONSEC 3 (***Juniper***).

41 *Re Sentry Investments Inc.* (2017), 40 OSCB 3435, 2017 ONSEC 7 at paras 5-6.

[84] The seriousness of the Merit Panel's findings also figures prominently in determining what administrative penalty should be imposed. PFAM's management of the PPN business resulted in a deficiency of investor monies of $1.2 million. McKinnon argues that investors were not put at risk because the banks eventually paid the Noteholders. However, this view ignores the harm to investors who received lower prices than they were entitled to receive, as well as the harm to investors whose payments were delayed up to two years. Further, as we have already explained, the banks were harmed by the fact that they subsequently "were obligated to pay $1.2 million more than they would otherwise have been required to pay."[42] McKinnon's assertion that the banks were obligated to pay the investors in any event is incorrect, since the banks believed, understandably, that PFAM had already paid investors pursuant to the redemption requests.

[85] As we have explained above, the many breaches of Ontario securities law resulted from the respondents' failure to establish, maintain and apply adequate compliance systems, to keep proper books and records, and to deal fairly, honestly and in good faith with their clients. This misconduct, along with the serious issues related to the PPNs, was recurrent and spanned several years. We consider these circumstances to be an aggravating factor in determining the appropriate administrative penalty.

[86] We conclude that an administrative penalty in the amount of $200,000 for each of PFAM and McKinnon is appropriate, proportionate and in the public interest.

VII. NON-FINANCIAL SANCTIONS

A. Trading Bans

1. Submissions

[87] Staff requests that all trading or acquisition of securities by McKinnon be prohibited for 10 years and that any exemptions contained in Ontario securities law not apply to McKinnon for 10 years.

[88] Staff also requests that all trading or acquisition of securities by PFAM be prohibited and that that any exemptions contained in Ontario securities law not apply to PFAM for 10 years.

[89] Staff refers to the oft-cited statement by the Commission that "participation in the capital markets is a privilege, not a right."[43] Staff submits that the breaches of Ontario securities law are serious and that they warrant removing the respondents from the capital markets for a period of time.

[90] McKinnon requests that there be no ban on trading or acquisition of securities. He submits that banning him from trading or acquiring securities would be purely punitive and that no such sanctions are warranted because his conduct at issue was related to administrative and accounting failures and not directly related to trading in the public markets. He argues that there is no "rational connection"[44] between a complete trading ban and protecting the public markets.

2. Analysis

[91] As Staff has pointed out, participation in the capital markets is a privilege, not a right. PFAM acted as a market intermediary[45], and was thus involved in trading activity between the issuing banks and investors, either directly or indirectly through another registrant. Given PFAM's improper conduct with respect to this trading, and given McKinnon's direction of that activity, it is appropriate in this case to remove the respondents from participation in the capital markets for a period of time.

[92] The 10-year duration of the ban is also appropriate when measured against other cases dealing with similar breaches. For example, in *Sextant*, a 10-year trading ban was imposed on Ekonomidis and a three-year trading ban was imposed on Natalie Spork due to her more limited role. In both *Norshield* and *Juniper*, the Commission imposed permanent trading bans; however, these cases can be distinguished as they dealt with larger investor losses. Specifically, *Norshield* involved investor losses of $159 million, and in *Juniper*, the investors lost $2,154,389 as a result of the receiver's payment to the banks to settle claims related to the misconduct.

[93] McKinnon does not request a carve-out for limited personal trading, in the event that we decide to impose a prohibition against him trading. He provided no information related to any current holdings of securities and the need to be able access any holdings, either for the purpose of selling securities to pay monetary sanctions or costs, or for living

[42] Merits Decision at para 102.

[43] *Erikson* at para 55.

[44] McKinnon's written submissions at para 47.

[45] Merits Decision at para 67.

expenses. He has also not requested carve-outs for registered plan holdings for himself or family members. We therefore did not consider, and we do not order, any such carve-out.

B. Director & Officer and Registration Bans

1. Submissions

[94] Staff requests that McKinnon be required to resign all positions that he holds as a director or officer of any issuer, registrant or investment fund manager, and further that he be prohibited from becoming or acting as a director or officer of any issuer, registrant or investment manager for 10 years.

[95] Staff also requests that McKinnon be banned from becoming or acting as a registrant, as an investment fund manager or as a promoter for 10 years.

[96] Staff states that the sanctions sought are warranted due to the seriousness of the conduct, which occurred repeatedly over a number of years involving multiple areas of the business. Staff points specifically to the two compliance reviews in 2009 and 2011, that identified some of the same deficiencies that the Merits Panel found had persisted.

[97] McKinnon submits that even if we find that it is appropriate to prevent him from being able to carry out similar conduct as a director or officer of a registrant, we need not go farther and prohibit him from actually being a registrant. Alternatively, he submits, a registration ban need not be as long as the ban on being a director, officer or UDP.

[98] McKinnon also requests that the panel consider the fact that the request to reinstate his registration was not approved by the CRR Branch in 2015 and is still pending. He says that this has effectively taken him out of the capital markets for the past several years, and he asks that we consider this to be "time served"[46] in imposing any bans.

[99] McKinnon emphasizes that without being registered he will be unable to continue the financial advisory work that has been his career to date. He advises that he is willing to take additional compliance courses to show his commitment to better compliance. He therefore requests that the ban on being a director, officer or UDP of any issuer, registrant or investment fund manager be limited to six months and that there be no ban on him being a registrant.

2. Analysis

[100] The basic requirements for registration are proficiency, integrity and financial solvency.[47] Registrants are rightly held to a high standard of conduct given the level of trust that investors place in them and because registrants have an obligation to deal fairly, honestly and in good faith with their clients.

[101] Further, those individuals who hold senior positions such as CCO or UDP have greater responsibilities in regard to the activities of the firms they oversee. They are responsible for promoting a culture of compliance with Ontario securities law. As pointed out in the Merits Decision, "McKinnon failed to carry out his obligations as UDP by failing to appropriately supervise the activities of PFAM and by failing to establish and maintain the firm's required compliance with securities legislation."[48]

[102] The Merits Decision recognized the operational pressures that PFAM was under and the stresses that it encountered as a result of repeated reviews of PFAM by Staff of the Commission's CRR Branch. However, much of this could have been prevented if PFAM had dealt with the identified issues in a timely manner. For example, as noted in the Merits Decision, "[h]ad McKinnon and PFAM adequately addressed the concerns raised by the CRR Branch after its first review, they might have avoided many of the difficulties and regulatory costs which they later incurred."[49]

[103] We do not accept McKinnon's argument that we should deduct, from any registration ban we might impose, the time that has elapsed since the CRR Branch decided not to approve the reinstatement of his registration. The CRR Branch's decision was guided by different considerations and was not an enforcement response. We must determine appropriate sanctions in the context of this enforcement proceeding, and in doing so, we must take into account all of the factors discussed above. In particular, we consider it important not to undermine the deterrent effects of any order we might make, by reducing the applicable period.

[104] We are mindful of the effect of a registration ban on McKinnon's ability to pursue his chosen career. However, his serious, repeated, deliberate and dishonest conduct, together with his fundamental failure to recognize and carry out

46 McKinnon's Written Submissions at paras 51 and 70.

47 Subclause 27(2)(a)(i) of the Act.

48 Merits Decision at para 214.

49 Merits Decision at para 217.

the important obligations associated with his position of trust and responsibility, do not allow us to accede to McKinnon's request. To do so would be inconsistent with the Commission's obligations to protect investors and to promote confidence in the capital markets.

[105] During the sanctions and costs hearing, we asked Staff why it was not requesting a permanent ban on registration as an officer or director of a registrant, given the seriousness of the breaches. Staff responded that it considered a 10-year ban appropriate, citing the ban applied in *Sextant* to the respondent who had a senior role with a registrant but was not found to have committed fraud. Staff submitted that a permanent ban was not necessary and referred us to *Norshield* and *Juniper* where permanent bans were imposed but which involved greater losses to investors. Staff submitted that a 10-year ban would strike the appropriate balance given the conduct in this case. A ban longer than 10 years may have been appropriate given the circumstances of this case, but after considering Staff's submissions, we will not impose a lengthier ban than that sought.

VIII. COSTS

A. Submissions

[106] Staff requests that McKinnon, jointly and severally with PFAM, be ordered to pay $487,950.34 towards the costs of Staff's investigation and the costs related to the merits hearing.

[107] Staff submits that this is a conservative amount, as it represents a substantial discount of approximately 56.1% to the actual costs incurred during Staff's investigation, pre-hearing preparation and the merits hearing. Those costs were supported by proper documentary evidence, and were calculated based on hourly rates previously adopted by the Commission.

[108] The merits hearing was conducted over 17 days, with almost 700 exhibits.

[109] McKinnon submits that ordering costs against him on a joint and several basis with PFAM places an undue burden on him since PFAM is insolvent.

[110] McKinnon further argues that costs should be allocated between himself and PFAM in proportion to their respective involvement in the allegations. He estimates that PFAM is responsible for 90% of the work involved in this proceeding. He requests a costs order against him of no more than $50,000.

B. Analysis

[111] Costs are designed to reduce the burden on market participants to pay for investigations and enforcement proceedings. They are discretionary.

[112] This was a complex matter involving multiple breaches of the Act. The allegations against the respondents were serious and addressed the most fundamental obligations of registrants in the management of their business. The hearing itself was lengthy and involved numerous witnesses and exhibits.

[113] Staff was successful in proving its allegations against PFAM and McKinnon and has applied a substantial discount to the total costs incurred.

[114] We do not accept McKinnon's argument that PFAM should bear a greater portion of the cost allocation. It is impossible to separate McKinnon's actions from those of PFAM. McKinnon was the Chief Executive Officer, the UDP and the directing mind of PFAM. As noted in the Merits Decision, "PFAM failed to discharge the duties and responsibilities of a registered firm and McKinnon, as an officer and director of PFAM, authorized, permitted or acquiesced in those breaches and ultimately failed his responsibilities as URP and as UDP".[50]

[115] It is appropriate that costs be assigned on a joint and several basis against PFAM and McKinnon. The amount of $487,950.34, requested by Staff, is both appropriate and proportionate.

IX. CONCLUSION

[116] In his closing submissions, McKinnon characterized this matter as "essentially a compliance case"[51] which involved record-keeping, processing and management and administration problems. He stated that "the findings suggest a firm in PFAM that was simply trying to make ends meet and hoping that the PPN discrepancy would essentially resolve

[50] Merits Decision at para 221.

[51] Transcript, at p 107, line 6.

itself".[52] He further stated that while the Merits Panel found that PFAM's conduct was dishonest, "not all instances of dishonest conduct are created equal",[53] and that this was a case of "self-preservation".[54]

[117] As the Merits Panel noted in the Merits Decision, there was no evidence that McKinnon himself received any direct financial benefit from any of the failures of the firm; in fact, McKinnon put his own money into the firm to keep the business viable. But the Merits Panel also pointed out that McKinnon's and PFAM's focus was on furthering the business operations of PFAM rather than on its obligations as a registrant.

[118] We recognize that there is no evidence of direct personal benefit to McKinnon and we agree with him that not all instances of dishonest conduct are equal. Staff made no allegation of fraud and there was no such finding in the Merits Decision. However, registrants are not entitled to use monies given to them in trust for the purpose of "making ends meet". Registrants must not place their self-interest in keeping their businesses operational ahead of the interests of investors.

[119] Registrants have a duty to the investors who place their trust in them and must ensure that they manage their operations with care, diligence and good faith. They must comply with securities regulations that are intended to protect investors.

[120] McKinnon's suggestion that this is a compliance case involving record keeping, processing and administrative problems does not fully reflect the nature and seriousness of the misconduct here. This case is about a registrant firm which failed in its duty to have in place the necessary policies and procedures as well as an adequate system of controls and supervision in order to ensure compliance with Ontario securities law. This failure led to the breaches found against them and ultimately the sanctions which we have imposed. PFAM and McKinnon failed to fulfill their most basic responsibilities as registrants.

[121] For these reasons, we will issue an order as follows:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, McKinnon and PFAM are prohibited from trading in any securities for 10 years;

2. Pursuant to paragraph 2.1 of subsection 127(1) of the Act, McKinnon and PFAM are prohibited from acquiring any securities for 10 years;

3. Pursuant to paragraph 3 of subsection 127(1) of the Act, all exemptions contained in Ontario securities law shall not apply to McKinnon and PFAM for 10 years;

4. Pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, McKinnon shall resign from any positions he holds as a director or officer of any issuer, registrant or investment fund manager;

5. Pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, McKinnon is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for 10 years;

6. Pursuant to paragraph 8.5 of subsection 127(1) of the Act, McKinnon and PFAM are prohibited from becoming or acting as a registrant, an investment fund manager or a promoter for 10 years;

7. Pursuant to paragraph 9 of subsection 127(1) of the Act, McKinnon and PFAM shall each pay to the Commission an administrative penalty of $200,000.00, within 30 days of the date of this decision;

8. Pursuant to paragraph 10 of subsection 127(1) of the Act, McKinnon and PFAM shall jointly and severally disgorge to the Commission $1,181,397.00, within 30 days of the date of this decision;

9. Each of the payments required by paragraphs 7 and 8 of this Order is designated for allocation or use by the Commission in accordance with subclause 3.4(2)(b)(i) or (ii) of the Act; and

10. Pursuant to section 127.1 of the Act, McKinnon and PFAM shall jointly and severally pay the Commission costs of $487,950.34, within 30 days of the date of this decision.

[52] Transcript, at p 104, lines 25 to 27.

[53] Transcript, at p 105, line 5.

[54] Transcript, at p 105, line 7.

Dated at Toronto this 23rd day of April 2018.

“AnneMarie Ryan”

“Timothy Moseley”

“Janet Leiper”

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
Compel Capital Inc.	05 May 2017	19 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	

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
BetaPro S&P 500 VIX Short-Term Futures 2x Daily Bull ETF (formerly Horizons BetaPro S&P 500 VIX Short-Term Futures Bull)
BetaPro S&P 500 VIX Short-Term Futures Daily Inverse ETF (formerly Horizons BetaPro S&P 500 VIX Short-Term Futures Inver
BetaPro S&P 500 VIX Short-Term Futures ETF (formerly Horizons BetaPro S&P 500 VIX Short-Term Futures ETF)
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Long Form Prospectus dated April 17, 2018
Received on April 18, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2697878

Issuer Name:
FBC Active Blockchain Opportunities ETF
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated April 18, 2018
NP 11-202 Preliminary Receipt dated April 19, 2018
Offering Price and Description:
CAD Units and USD Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
First Block Capital Inc.
Project #2758201

Issuer Name:
IG Mackenzie Emerging Markets Fund
Principal Regulator – Manitoba
Type and Date:
Preliminary Simplified Prospectus dated April 20, 2018
NP 11-202 Preliminary Receipt dated April 20, 2018
Offering Price and Description:
Series U
Underwriter(s) or Distributor(s):
Investors Group Securities Inc.
Investors Group Financial Inc.
Promoter(s):
I. G. Investment Management Ltd.
Project #2758929

Issuer Name:
imaxx Canadian Bond Fund
imaxx Canadian Dividend Plus Fund
imaxx Canadian Fixed Pay Fund
imaxx Equity Growth Fund
imaxx Global Equity Growth Fund
imaxx Short Term Bond Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated April 16, 2018
NP 11-202 Preliminary Receipt dated April 19, 2018
Offering Price and Description:
A3, A4, F3 and F4 Class Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Foresters Asset Management Inc.
Project #2757647

Issuer Name:
imaxx Global Equity Growth Fund
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated April 16, 2018
Received on April 17, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2609404

Issuer Name:
Mackenzie Multi-Strategy Absolute Return Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated April 23, 2018
Received on April 23, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2759653

Issuer Name:
MD American Growth Fund
MD American Value Fund
MD Bond Fund
MD Dividend Growth Fund
MD Equity Fund
MD Fossil Fuel Free Bond Fund
MD Fossil Fuel Free Equity Fund
MD Growth Investments Limited
MD International Growth Fund
MD International Value Fund
MD Money Fund
MD Precision Balanced Growth Portfolio
MD Precision Balanced Income Portfolio
MD Precision Canadian Balanced Growth Fund (formerly, MD Balanced Fund)
MD Precision Canadian Moderate Growth Fund (formerly, MD Dividend Income Fund)
MD Precision Conservative Portfolio
MD Precision Maximum Growth Portfolio
MD Precision Moderate Balanced Portfolio
MD Precision Moderate Growth Portfolio
MD Select Fund
MD Short-Term Bond Fund
MD Strategic Opportunities Fund
MD Strategic Yield Fund
MDPIM Canadian Equity Pool
MDPIM US Equity Pool
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated April 16, 2018
NP 11-202 Preliminary Receipt dated April 18, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
MD Financial Management Inc.
Project #2757613

Issuer Name:
MDPIM Canadian Bond Pool
MDPIM Canadian Equity Pool
MDPIM Canadian Long Term Bond Pool
MDPIM Dividend Pool
MDPIM Emerging Markets Equity Pool
MDPIM International Equity Index Pool
MDPIM International Equity Pool
MDPIM S&P 500 Index Pool
MDPIM S&P/TSX Capped Composite Index Pool
MDPIM Strategic Opportunities Pool
MDPIM Strategic Yield Pool
MDPIM US Equity Pool
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated April 16, 2018
NP 11-202 Preliminary Receipt dated April 18, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
MD Financial Management Inc.
Project #2757644

Issuer Name:
BetaPro S&P 500 VIX Short-Term Futures 2x Daily Bull ETF (formerly Horizons BetaPro S&P 500 VIX Short-Term Futures Bull)
BetaPro S&P 500 VIX Short-Term Futures Daily Inverse ETF (formerly Horizons BetaPro S&P 500 VIX Short-Term Futures Inver
BetaPro S&P 500 VIX Short-Term Futures ETF (formerly Horizons BetaPro S&P 500 VIX Short-Term Futures ETF)
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Long Form Prospectus dated April 17, 2018
NP 11-202 Receipt dated April 23, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2697878

Issuer Name:
Evolve Innovation Index ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 20, 2018
NP 11-202 Receipt dated April 23, 2018
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Evolve Funds Group Inc.
Project #2751973

Issuer Name:
Fidelity Monthly Income Fund
Fidelity Conservative Income Fund
Fidelity Balanced Managed Risk Portfolio
Fidelity Conservative Managed Risk Portfolio
Principal Regulator – Ontario
Type and Date:
Amendment #5 to Final Annual Information Form dated April 13, 2018
NP 11-202 Receipt dated April 18, 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 Monthly Income Class
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Annual Information Form dated April 13, 2018
NP 11-202 Receipt dated April 18, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Fidelity Investments Canada ULC
Project #2729743

Issuer Name:
Fidelity Conservative Income Private Pool
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Annual Information Form dated April 13, 2018
NP 11-202 Receipt dated April 18, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Promoter(s):
Fidelity Investments Canada ULC
Project #2661253

Issuer Name:
First Asset CanBanc Income Class ETF
First Asset Core Canadian Equity Income Class ETF
First Asset MSCI Canada Quality Index Class ETF
First Asset Short Term Government Bond Index Class ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 20, 2018
NP 11-202 Receipt dated April 20, 2018
Offering Price and Description:
Corporate Class Shares and Class J Shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2739249

Issuer Name:
Guardian Balanced Fund
Guardian Balanced Income Fund
Guardian Canadian Bond Fund
Guardian Canadian Equity Fund
Guardian Canadian Equity Select Fund
Guardian Canadian Focused Equity Fund
Guardian Canadian Growth Equity Fund
Guardian Canadian Short-Term Investment Fund
Guardian Canadian Small/Mid Cap Equity Fund
Guardian Emerging Markets Equity Fund
Guardian Equity Income Fund
Guardian Fixed Income Select Fund (formerly, Guardian Private Wealth Bond Fund)
Guardian Fundamental Global Equity Fund
Guardian Global Dividend Growth Fund
Guardian Global Equity Fund
Guardian Growth & Income Fund
Guardian High Yield Bond Fund
Guardian International Equity Fund
Guardian International Equity Select Fund
Guardian Investment Grade Corporate Bond Fund
Guardian Managed Income & Growth Portfolio
Guardian Managed Income Portfolio
Guardian Private Wealth Equity Fund
Guardian Short Duration Bond Fund
Guardian U.S. Equity All Cap Growth Fund
Guardian U.S. Equity Fund
Guardian U.S. Equity Select Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated April 19, 2018
NP 11-202 Receipt dated April 20, 2018
Offering Price and Description:
Series C, I and W Units
Underwriter(s) or Distributor(s):
Worldsource Financial Management Inc.
Guardian Capital LP
Worldsource Securities Inc.
Promoter(s):
Guardian Capital LP
Project #2742780

Issuer Name:
Horizons Enhanced Income Energy ETF
Horizons Enhanced Income Equity ETF
Horizons Enhanced Income Financials ETF
Horizons Enhanced Income Gold Producers ETF
Horizons Enhanced Income International Equity ETF
Horizons Enhanced Income US Equity (USD) ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated April 18, 2018
NP 11-202 Receipt dated April 23, 2018
Offering Price and Description:
Class E Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2739811

Issuer Name:
Mackenzie Canadian Money Market Fund
Mackenzie Canadian Bond Fund
Mackenzie Canadian Short Term Income Fund
Mackenzie Corporate Bond Fund
Mackenzie Floating Rate Income Fund
Mackenzie Global Credit Opportunities Fund
Mackenzie Global Tactical Bond Fund
Mackenzie Global Tactical Investment Grade Bond Fund
Mackenzie Investment Grade Floating Rate Fund
Mackenzie North American Corporate Bond Fund
Mackenzie Strategic Bond Fund
Mackenzie Unconstrained Fixed Income Fund
Mackenzie USD Global Tactical Bond Fund
Mackenzie USD Ultra Short Duration Income Fund
Mackenzie Canadian All Cap Balanced Fund
Mackenzie Canadian Balanced Fund
Mackenzie Canadian Growth Balanced Fund
Mackenzie Cundill Canadian Balanced Fund
Mackenzie Global Strategic Income Fund
Mackenzie Global Sustainability and Impact Balanced Fund
Mackenzie Income Fund
Mackenzie Ivy Canadian Balanced Fund
Mackenzie Ivy Global Balanced Fund
Mackenzie Strategic Income Fund
Mackenzie US Strategic Income Fund
Mackenzie USD Global Strategic Income Fund
Mackenzie Canadian All Cap Dividend Fund
Mackenzie Canadian All Cap Dividend Growth Fund
Mackenzie Canadian All Cap Value Fund
Mackenzie Canadian Growth Fund
Mackenzie Canadian Large Cap Dividend Fund
Mackenzie Canadian Large Cap Growth Fund
Mackenzie Canadian Small Cap Fund
Mackenzie Cundill Canadian Security Fund
Mackenzie Growth Fund
Mackenzie Ivy Canadian Fund
Mackenzie Private Canadian Money Market Pool
Mackenzie Private Canadian Focused Equity Pool
Mackenzie Private Global Conservative Income Balanced Pool
Mackenzie Private Global Equity Pool
Mackenzie Private Global Fixed Income Pool
Mackenzie Private Global Income Balanced Pool
Mackenzie Private Income Balanced Pool
Mackenzie Private US Equity Pool
Mackenzie US All Cap Growth Fund
Mackenzie US Dividend Fund
Mackenzie US Dividend Registered Fund
Mackenzie US Low Volatility Fund
Mackenzie All China Equity Fund
Mackenzie Cundill Recovery Fund
Mackenzie Cundill Value Fund
Mackenzie Global Dividend Fund
Mackenzie Global Equity Fund
Mackenzie Global Low Volatility Fund
Mackenzie Global Small Cap Fund
Mackenzie Global Leadership Impact Fund
Mackenzie Ivy Foreign Equity Fund
Mackenzie Ivy International Fund
Mackenzie Ivy International Equity Fund
Mackenzie Canadian Resource Fund
Mackenzie Monthly Income Balanced Portfolio
Mackenzie Monthly Income Conservative Portfolio
Symmetry Balanced Portfolio
64.Symmetry Conservative Income Portfolio
Symmetry Conservative Portfolio
Symmetry Fixed Income Portfolio
Symmetry Growth Portfolio
Symmetry Moderate Growth Portfolio
Mackenzie Diversified Alternatives Fund
Mackenzie High Diversification Emerging Markets Equity Fund
Mackenzie High Diversification European Equity Fund
Mackenzie High Diversification Global Equity Fund
Mackenzie High Diversification International Equity Fund
Mackenzie High Diversification US Equity Fund
Mackenzie Canadian Money Market Class
Mackenzie Canadian All Cap Balanced Class
Mackenzie Canadian Growth Balanced Class
Mackenzie Ivy Canadian Balanced Class
Mackenzie Ivy Global Balanced Class
Mackenzie Canadian All Cap Dividend Class
Mackenzie Canadian All Cap Value Class
Mackenzie Canadian Growth Class
Mackenzie Canadian Large Cap Dividend Class
Mackenzie Canadian Small Cap Class
Mackenzie Cundill Canadian Security Class
Mackenzie Cundill US Class
Mackenzie US Growth Class
Mackenzie US Large Cap Class
Mackenzie US Mid Cap Growth Class
Mackenzie US Mid Cap Growth Currency Neutral Class
Mackenzie Cundill Recovery Class
Mackenzie Cundill Value Class
Mackenzie Emerging Markets Class
Mackenzie Emerging Markets Opportunities Class
Mackenzie Global Growth Class
Mackenzie Global Small Cap Class
Mackenzie Ivy International Class
Mackenzie Ivy European Class
Mackenzie Ivy Foreign Equity Class
Mackenzie Ivy Foreign Equity Currency Neutral Class
Mackenzie Global Resource Class
Mackenzie Gold Bullion Class
Mackenzie Precious Metals Class
Symmetry Balanced Portfolio Class
Symmetry Conservative Income Portfolio Class
Symmetry Conservative Portfolio Class
Symmetry Equity Portfolio Class
Symmetry Growth Portfolio Class
Symmetry Moderate Growth Portfolio Class
Mackenzie High Diversification Canadian Equity Class
Mackenzie Private Canadian Focused Equity Pool Class
Mackenzie Private Global Equity Pool Class
Mackenzie Private Income Balanced Pool Class
Mackenzie Private US Equity Pool Class
Principal Regulator – Ontario

Type and Date:
Amendment #1 to Final Simplified Prospectus dated March 29, 2018
NP 11-202 Receipt dated April 20, 2018

Offering Price and Description:
–

Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.

LBC Financial Services Inc
Promoter(s):
Mackenzie Financial Corporation
Project #2656987

Issuer Name:
Mackenzie Balanced ETF Portfolio
Mackenzie Conservative ETF Portfolio
Mackenzie Conservative Income ETF Portfolio
Mackenzie Growth ETF Portfolio
Mackenzie Moderate Growth ETF Portfolio
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated March 29, 2018
NP 11-202 Receipt dated April 20, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Mackenzie Financial Corporation
Project #2694335

Issuer Name:
Mackenzie Income Fund
Mackenzie Canadian Short Term Income Fund
Mackenzie Cundill Recovery Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated March 29, 2018
NP 11-202 Receipt dated April 17, 2018
Offering Price and Description:
LB and LW Securities
Underwriter(s) or Distributor(s):
LBC Financial Services Inc.
Promoter(s):
Mackenzie Financial Corporation
Project #2680408

Issuer Name:
Mackenzie Emerging Markets Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated March 29, 2018
NP 11-202 Receipt dated April 20, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Mackenzie Financial Corporation
Project #2719732

Issuer Name:
Purpose US Dividend Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus and Amendment #2 to AIF dated April 10, 2018
NP 11-202 Receipt dated April 19, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Purpose Investments Inc.
Project #2674554

Issuer Name:
StoneCastle Cannabis Growth Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated April 11, 2018
NP 11-202 Receipt dated April 17, 2018
Offering Price and Description:
Series A, D and F units @ net asset
Underwriter(s) or Distributor(s):
Spartan Fund Management Inc.
Promoter(s):
Spartan Fund Management Inc.
Project #2713828

NON-INVESTMENT FUNDS

Issuer Name:
Acasti Pharma Inc.
Principal Regulator – Quebec
Type and Date:
Preliminary Short Form Prospectus dated April 23, 2018
Received on April 23, 2018
Offering Price and Description:
$*
* Units
Price: $* per Unit
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
–
Project #2759533

Issuer Name:
Liberty Health Sciences Inc. (formerly, SecureCom Mobile Inc.)
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated April 20, 2018
NP 11-202 Preliminary Receipt dated April 20, 2018
Offering Price and Description:
$20,000,250.00
22,222,500 Units
Price: $0.90 per Unit
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
Haywood Securities Inc.
Infor Financial Inc.
Promoter(s):
–
Project #2757312

Issuer Name:
Park Lawn Corporation
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated April 20, 2018
NP 11-202 Preliminary Receipt dated April 20, 2018
Offering Price and Description:
$165,007,500.00
6,735,000 Subscription Receipts each representing the right to receive one Common Share
Price: $24.50 per Subscription Receipt
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
Cormark Securities Inc.
Acumen Capital Finance Partners Limited
BMO Nesbitt Burns Inc.
Raymond James Ltd.
TD Securities Inc.
Canaccord Genuity Corp.
Clarus Securities Inc.
GMP Securities L.P.
Paradigm Capital Inc.
Promoter(s):
–
Project #2757280

Issuer Name:
Platform 9 Capital Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary CPC Prospectus (TSX-V) dated April 23, 2018
NP 11-202 Preliminary Receipt dated April 23, 2018
Offering Price and Description:
Minimum Offering: $200,000.00 or 2,000,000 Common Shares
Maximum Offering: $700,000.00 or 7,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
John Travaglini
Project #2759565

Issuer Name:
Premium Brands Holdings Corporation
Principal Regulator – British Columbia
Type and Date:
Preliminary Short Form Prospectus dated April 18, 2018
NP 11-202 Preliminary Receipt dated April 18, 2018
Offering Price and Description:
$150,208,000.00 – 1,280,000 Subscription Receipts each representing the right to receive one Common Share
Price Per Subscription Receipt: $117.35
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Cormark Securities Inc.
National Bank Financial Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
Canaccord Genuity Corp.
Industrial Alliance Securities Inc.
PI Financial Corp.
Promoter(s):
–
Project #2756310

Issuer Name:
Rogers Communications Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated April 23, 2018
NP 11-202 Preliminary Receipt dated April 23, 2018
Offering Price and Description:
$4,000,000,000.00
Debt Securities
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2759368

Issuer Name:
Rogers Communications Inc.
Type and Date:
Preliminary Shelf Prospectus dated April 23, 2018
(Preliminary) Receipted on April 23, 2018
Offering Price and Description:
US$4,000,000,000.00 – Debt Securities
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2759372

Issuer Name:
Savaria Corporation
Principal Regulator – Quebec
Type and Date:
Preliminary Short Form Prospectus dated April 20, 2018
NP 11-202 Preliminary Receipt dated April 20, 2018
Offering Price and Description:
$49,800,000.00 – 3,000,000 Common Shares
Price: $16.60 per Common Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
GMP Securities L.P.
Cormark Securities Inc.
Laurentian Bank Securities Inc.
Desjardins Securities Inc.
PI Financial Corp.
TD Securities Inc.
Promoter(s):
Marcel Bourassa
Jean-Marie Bourassa
Project #2757339

Issuer Name:
Schooner Capital Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary CPC Prospectus (TSX-V) dated April 17, 2018
NP 11-202 Preliminary Receipt dated April 19, 2018
Offering Price and Description:
Offering: $235,000.00 (2,350,000 Common shares)
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
Adam Spencer
Project #2758440

Issuer Name:
The Second Cup Ltd.
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated April 23, 2018
NP 11-202 Preliminary Receipt dated April 23, 2018
Offering Price and Description:
$10,000,170.00 – 2,898,600 Common Shares
Price: $3.45 per Common Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
Promoter(s):
–
Project #2757491

Issuer Name:
Antioquia Gold Inc.
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated April 19, 2018
NP 11-202 Receipt dated April 20, 2018
Offering Price and Description:
$62,500,000.00
OFFERING OF RIGHTS TO SUBSCRIBE FOR UP TO
1,488,095,238 COMMON SHARES
AT A PRICE OF $0.042 PER COMMON SHARE
Underwriter(s) or Distributor(s):
–
Promoter(s):
Infinita Prosperidad Minera Sac
Project #2741937

Issuer Name:
Crown Point Energy Inc.
Principal Regulator – Alberta (ASC)
Type and Date:
Final Short Form Prospectus dated April 17, 2018
NP 11-202 Receipt dated April 17, 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

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Voluntary Surrender	Hueniken & Company Limited	Investment Counsel and Portfolio Manager	March 16, 2018
Consent to Suspension (Pending Surrender)	Stark Investments (Canada) Corp.	Portfolio Manager	March 23, 2018

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 CSE – Notice of Proposed Amendments and Request for Comments to Application of Continued Listing Requirements

CANADIAN SECURITIES EXCHANGE

PUBLIC INTEREST RULE AMENDMENT

APPLICATION OF CONTINUED LISTING REQUIREMENTS

NOTICE AND REQUEST FOR COMMENTS

April 26, 2018

Background

On January 6, 2017, the Canadian Securities Exchange ("CSE") proposed certain continued listing requirements ("CLR") in Notice 2017-001 *Request for Comments – Continued Listing Requirements* ("CLR Notice")[1]. Also included in Notice 2017-001 were proposed public interest amendments to Policy 3 – *Suspensions, Halts and Disqualifications*. Specifically, section 5 of Policy 3 was added to support the CLR by defining the consequences of a listed company not meeting the CLR. No comments were received during the comment period. Upon the Ontario Securities Commission's approval of these amendments, the amendments will be made effective.

A. Description of the Public Interest Rule

In addition to the pending proposed amendments published on January 6, 2017, the CSE is proposing additional public interest rule changes to Policies 1, 3, and 6 including revising amendments to the previously proposed section 5 of Policy 3, and related housekeeping changes. The public interest rule changes and associated housekeeping changes (collectively, the "Amendments") have been approved by the Regulatory Advisory Committee of the CSE Board.

1) Section 3 of Policy 3 includes updates to terminology and a change to reflect the practical application of suspensions. The current Policy 3 states that trading in an Issuer's securities "will automatically" be suspended if "*at any time, the Issuer fails to meet any of the requirements for continued listing*." There is no consideration given to the severity of the breach of requirements, which could result in a situation in which the suspension of trading causes greater harm than the breach. A Form 7 Monthly Progress Report, for example, contains no new material information, and provides a commentary from management of the Issuer. It is not in the public interest to suspend trading if a form is a day late, or charge the issuer a reinstatement fee to resume trading. The application of discretion for non-significant breaches will avoid unintended consequences resulting from automatic suspensions.

   Policy 3 states that following a 90 day suspension, securities of a CSE Issuer are automatically delisted. The Amendments to section 3.2 reflect the more practical application of the policy to provide for an extension to the suspension for an additional 90 days.

2) The amendments to section 4 of Policy 3 supplement the changes to section 3 and expands upon the voluntary delisting process. These amendments are consistent with common exchange practice, and clarify the authority of the CSE to deny a voluntarily delisting in the public interest and to deny a delisting if there are outstanding fees owed to the CSE.

3) Section 5 of Policy 3 "Application of Continued Listing Requirements" is proposed to be amended to require that a Listed Issuer meet the CLR to remain listed in good standing. The CSE may designate the issuer as inactive, assign to a different industry segment, suspend trading or delist an issuer that does not meet the CLR. Section 5.1 "Notification"

[1] http://thecse.com/en/about/publications/notices/notice-2017-001-request-for-comment-continued-listing-requirements. Also published by the OSC on January 5, 2017: http://www.osc.gov.on.ca/documents/en/Marketplaces/cnsx_20170105_rfc-halts-delistings.docx.pdf.

provides for notice to a Listed Issuer in default, and the permitted period for meeting CLR. An Issuer, upon receiving notice from the CSE that it does not meet a continued listing requirement, will have nine months from the date of the notice to meet the requirement(s).

4) Section 5.2 of Policy 3 "Restrictions" will limit certain activity by a company that has been deemed inactive. The published CLR proposal included a single restriction, that an Issuer that has been deemed inactive and received such notice from the CSE may not enter into a contract or agreement with any person to provide investor relations services for the issuer without prior approval of the CSE. Additional restrictions are proposed to limit financing activity for inactive issuers.

5) Section 5.3 of Policy 3 "Suspensions" clarifies that issuers that have received a notice under section 5.1 or that have been designated as inactive and are subsequently suspended for any reason will not resume trading after rectifying the breach that caused a suspension as is otherwise contemplated under section 3.2. Issuers that are inactive and suspended will be delisted following the 90 day suspension unless an application is made to requalify for listing pursuant to Policy 2 Qualification for Listing or Policy 8 Fundamental Changes and Changes of Business.

6) Section 5.4 of Policy 3 "Removal of the Inactive Designation" describes the conditions that must be met for an Issuer to no longer be considered an Inactive Issuer.

Consequential amendments to Policy 1 – Interpretation and General Provisions and Policy 6 – Distributions include the addition of the definition of "Inactive Issuer" to Policy 1 section 3.2 and the exclusion of Inactive Issuers from Policy 6 section 2.4, which supports the restriction on financing for Inactive Issuers in section 5.2 of the Policy.

B. Expected Date of Implementation of the Proposed Public Interest Rule

The Amendments are expected to be implemented concurrently with the CLR upon OSC approval.

C. Rationale for the Proposal and any Relevant Supporting Analysis

CLR are intended to promote investor confidence by providing a threshold below which companies will not qualify for continued listing on an exchange. It is important to recognize, however, that while investors may take comfort in the fact that a company meets specific criteria at the time of investment, they should also take comfort in knowing that the Company will not be delisted for a minor breach of policy.

The proposed CLR do not include arbitrary thresholds such as market capitalization, and together with the supporting amendments to Policy 3 provide a measure of comfort for listed companies and their investors that the nature of the deficiencies and the actions of an issuer attempting to remedy deficiencies will be considered by the Exchange. The factors affecting continued listing are primarily within the control of the Issuer, so that a company that is working to meet business objectives should be able to maintain a listing. An issuer that is not working towards meeting the requirements will ultimately be delisted.

The Amendments provide clarity and transparency in the application of the CLR, and include additional measures, such as the restrictions proposed in section 5.2 to ensure that an issuer's resources are directed towards developing or pursuing a business, rather than promoting a company without one or preparing the issuer as a listed shell company.

Section 5.3 Suspensions – Inactive Issuers, is intended to initiate the delisting process for those issuers that are both inactive and failing to meet regulatory obligations.

The inactive designation is intended to reflect the state of an issuer's business. Section 5.4 provides for the removal of the inactive designation when there is evidence that an Inactive Issuer meets the initial or continued listing requirements.

D. Expected Impact of the Proposed Public Interest Rule on the Market Structure, Members and, if applicable, on Investors, Issuers and the Capital Markets

The CSE anticipates that the proposed changes to the Policies will increase confidence and encourage the Canadian corporate finance community's willingness to participate in financings for CSE-listed issuers, and for investment dealers to participate in both agency and principal trading for CSE-listed issuers. These measures should improve secondary market liquidity and increase the range of financing opportunities for CSE-listed issuers.

There is no impact on Market Structure and Members.

E. Expected Impact of the Public Interest Rule on CSE's compliance with Ontario securities law and in particular on requirements for Fair Access and Maintenance of Fair and Orderly Markets

The proposed amendments are not expected to impact the CSE's compliance with Ontario securities law, including the requirements for fair access or the maintenance of fair and orderly markets.

F. Imposed Requirements by the Public Interest Rule on Members and Service Vendors to Modify their Own Systems after Implementation of the Rule, and a Reasonable Estimate of the Amount of Time needed to Perform the Necessary Work, or an Explanation as to why a Reasonable Estimate was not Provided

No technology changes will be required as a result of the proposed amendments.

G. Introduction of a fee model, feature or Rule that currently exists in other markets or jurisdictions

All other exchanges in Canada have similar explicit requirements related to continued listing requirements and delisting.

H. Comments

Comments on the proposed amendments should be in writing and submitted no later than May 28, 2018 to:

Mark Faulkner
Vice President, Listings and Regulation
CNSX Markets Inc.
220 Bay Street, 9th Floor
Toronto, ON, M5J 2W4
Fax: 416.572.4160
Email: Mark.Faulkner@thecse.com

A copy of the comments should be provided to:

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West, 20th Floor
Toronto, ON, M5H 3S8
Fax: 416.595.8940
Email: marketregulation@osc.gov.on.ca

The text of the Amendments is provided in Appendix A. The text of the proposed CLR, as published in the CLR Notice, is provided in Appendix B.

Appendix A

Blacklined version indicating changes to existing CSE Policies 1, 3 and 6	Version indicating changes incorporated
POLICY 1 – INTERPRETATION AND GENERAL PROVISIONS **3. Definitions** **3.2** … **"Inactive Issuer"** means an issuer that has failed to meet certain continued listing requirements and has been deemed inactive by the Exchange pursuant to Policy 3 section 5.	**POLICY 1 – INTERPRETATION AND GENERAL PROVISIONS** **3. Definitions** **3.2** … **"Inactive Issuer"** means an issuer that has failed to meet certain continued listing requirements and has been deemed inactive by the Exchange pursuant to Policy 3 section 5.
POLICY 3 – SUSPENSIONS AND ~~DISQUALIFICATION~~ INACTIVE ISSUERS **1. Listing Agreement** 1.1 The Listing Agreement authorizes the Exchange or the Market Regulator to halt and authorizes the Exchange to suspend ~~listing and~~ trading in a ~~CNSX~~ Listed Issuer's securities without notice and at any time or to ~~disqualify for listing~~ delist the securities of a ~~CNSX~~Listed Issuer if ~~CNSX~~ the Exchange or the Market Regulator, as the case may be, believes it is in the public interest.	**POLICY 3 – SUSPENSIONS AND INACTIVE ISSUERS** **1. Listing Agreement** 1.1 The Listing Agreement authorizes the Exchange or the Market Regulator to halt and authorizes the Exchange to suspend trading in a Listed Issuer's securities without notice and at any time or to delist the securities of a Listed Issuer if the Exchange or the Market Regulator, as the case may be, believes it is in the public interest.
2. Halts 2.1 The Exchange or the Market Regulator can order a ~~quotation and~~ trading halt to allow for public dissemination of material news pursuant to Policy 5.	**2. Halts** 2.1 The Exchange or the Market Regulator can order a trading halt to allow for public dissemination of material news pursuant to Policy 5.
3. Suspensions 3.1 The Exchange ~~will automatically and~~ may, without any prior notice suspend ~~from qualification for listing~~ trading in a Listed Issuer's securities if, at any time, the Listed Issuer fails to meet any of the requirements ~~for continued qualification for~~ as set out in CSE Policies; or the Exchange considers it in the public interest to do so. 3.2 (a) Subject to section 5.3 for Inactive Issuers, ~~If~~ if a Listed Issuer which has had its securities suspended ~~from qualification for listing~~pursuant to this Policy 3 or otherwise has, within 90 days from the date of such suspension, (i) cured the default or breach that gave rise to the suspension; and (ii) paid the ~~requalification~~ reinstatement fee set out in fee schedule of the Exchange, the ~~CNSX~~Listed Issuer's securities ~~will automatically requalify for listing~~ may resume trading. (b) The Exchange will extend the period of suspension for an additional 90 days if the Exchange is satisfied that the Listed Issuer has made progress towards curing the default or breach that gave rise to the suspension.	**3. Suspensions** 3.1 The Exchange may, without any prior notice suspend trading in a Listed Issuer's securities if, at any time, the Listed Issuer fails to meet any of the requirements as set out in CSE Policies; or the Exchange considers it in the public interest to do so. 3.2 (a) Subject to section 5.3 for Inactive Issuers, if a Listed Issuer which has had its securities suspended pursuant to this Policy 3 or otherwise has, within 90 days from the date of such suspension, (i) cured the default or breach that gave rise to the suspension; and (ii) paid the reinstatement fee set out in fee schedule of the Exchange, the Listed Issuer's securities may resume trading. (b) The Exchange will extend the period of suspension for an additional 90 days if the Exchange is satisfied that the Listed Issuer has made progress towards curing the default or breach that gave rise to the suspension.

Blacklined version indicating changes to existing CSE Policies 1, 3 and 6	Version indicating changes incorporated
3.3 Throughout the period during which a Listed Issuer's securities are suspended, the ~~Trading System~~ Exchange will not allow quotation or trading by Dealers in the securities of the Listed Issuer; the Exchange website will indicate that the Issuer's securities have been suspended. Dealers may quote or trade the securities of the Listed Issuer on other marketplaces or over-the-counter unless prohibited under securities legislation or UMIR.	3.3 Throughout the period during which a Listed Issuer's securities are suspended, the Exchange will not allow quotation or trading by Dealers in the securities of the Listed Issuer; the Exchange website will indicate that the Issuer's securities have been suspended. Dealers may quote or trade the securities of the Listed Issuer on other marketplaces or over-the-counter unless prohibited under securities legislation or UMIR.
3.4 Throughout the period during which a Listed Issuer's securities are suspended, the Listed Issuer must continue to comply with all applicable Exchange Requirements.	3.4 Throughout the period during which a Listed Issuer's securities are suspended, the Listed Issuer must continue to comply with all applicable Exchange Requirements.
4. Delisting ~~Disqualifications and Withdrawal of Listings~~	**4. Delisting**
4.1 Following a 90 day suspension ~~CNSX~~the Exchange will, ~~automatically and~~ without any prior notice, ~~disqualify from listing~~ delist a ~~CNSX~~Listed Issuer's securities unless the period of suspension has been extended in accordance with Section 3.2(b) of this Policy. ~~Issuer has, within 90 days of having its securities suspended from qualification for listing:~~ ~~(a) cured the default or breach that gave rise to the suspension from qualification for listing; and~~ ~~(b) paid to CNSX the requalification fee set out in Policy 10.~~	4.1 Following a 90 day suspension the Exchange will, without any prior notice, delist a Listed Issuer's securities unless the period of suspension has been extended in accordance with Section 3.2(b) of this Policy.
4.2 A ~~CNSX~~Listed Issuer may at any time request that ~~CNSX withdraw from listing~~ all or any class of its securities be delisted. Any such request must be made in writing and must identify the securities that will be the subject of the ~~withdrawal~~ delisting. Pursuant to Policy 1 Section 2.1, the Exchange may, in its sole discretion, deny such request for any of the following reasons: (a) outstanding fees are owed to the Exchange; (b) the request is made in order to proceed with a transaction that is unacceptable to the Exchange or that the Exchange finds objectionable; (c) the Exchange believes it is in the public interest to deny such a request.	4.2 A Listed Issuer may at any time request that all or any class of its securities be delisted. Any such request must be made in writing and must identify the securities that will be the subject of the delisting. Pursuant to Policy 1 Section 2.1, the Exchange may, in its sole discretion, deny such request for any of the following reasons: (a) outstanding fees are owed to the Exchange; (b) the request is made in order to proceed with a transaction that is unacceptable to the Exchange or that the Exchange finds objectionable; (c) the Exchange believes it is in the public interest to deny such a request.
[NOTE: Double underline/strikethrough indicates changes from proposed amendments published in the CLR Notice January 5, 2017]	
5. **Application of Continued Listing Requirements** A Listed Issuer must meet ~~Exchange~~ the Continued Listing Requirements to remain listed in good standing. The Exchange may designate an issuer as inactive, assign it to a different industry segment, suspend trading or delist an issuer that does not meet ~~Exchange~~ Continued Listing Requirements.	5. **Application of Continued Listing Requirements** A Listed Issuer must meet the Continued Listing Requirements to remain listed in good standing. The Exchange may designate an issuer as inactive, assign it to a different industry segment, suspend trading or delist an issuer that does not meet Continued Listing Requirements.

Blacklined version indicating changes to existing CSE Policies 1, 3 and 6	Version indicating changes incorporated
5.1 **Notification** An Issuer, upon receiving notice from the Exchange that it does not meet a continued listing requirement, will have nine months from the date of the notice to meet the requirement(s). If, after the nine-month period, the Issuer has not demonstrated to the Exchange that it has met the requirements, the Exchange will ~~may~~: a) delist or suspend the Issuer pending delisting in 90 days; b) assign the Issuer to a different industry classification; or c) designate the Issuer as inactive, with relevant disclosure on the Exchange website and a designation on the trading symbol of the issuer.	5.1 **Notification** An Issuer, upon receiving notice from the Exchange that it does not meet a continued listing requirement, will have nine months from the date of the notice to meet the requirement(s). If, after the nine-month period, the Issuer has not demonstrated to the Exchange that it has met the requirements, the Exchange will: a) suspend the Issuer pending delisting in 90 days; b) assign the Issuer to a different industry classification; or c) designate the Issuer as inactive, with relevant disclosure on the Exchange website and a designation on the trading symbol of the issuer.
5.2 **Restrictions** The following restrictions apply to any Issuer that has been designated inactive and received such notice from the Exchange: (a) an Inactive Issuer ~~an issuer that has been deemed inactive and received such notice from the Exchange~~ may not enter into a contract or agreement with any person to provide investor relations services for the issuer. (b) an Inactive Issuer is not eligible for confidential price protection as per Policy 6 section 2.4. An Inactive Issuer with an intention to complete a private placement must issue a news release. (c) in addition to the procedures set out in Policy 6, any private placement proposed by an Inactive Issuer must be approved by the Exchange prior to closing. The Exchange may impose additional requirements or restrictions as it determines appropriate.	5.2 **Restrictions** The following restrictions apply to any Issuer that has been designated inactive and received such notice from the Exchange: (a) an Inactive Issuer may not enter into a contract or agreement with any person to provide investor relations services for the issuer. (b) an Inactive Issuer is not eligible for confidential price protection as per Policy 6 section 2.4. An Inactive Issuer with an intention to complete a private placement must issue a news release. (c) in addition to the procedures set out in Policy 6, any private placement proposed by an Inactive Issuer must be approved by the Exchange prior to closing. The Exchange may impose additional requirements or restrictions as it determines appropriate.
5.3 Suspensions – Inactive Issuers ~~For an Issuer that has, pursuant to section 5.1, received notice or been designated as inactive, section 3.2 does not apply. The Issuer will be delisted in 90 days unless application is made to requalify for listing pursuant to Policy 2 Qualification for Listing or Policy 8 Fundamental Changes and Changes of Business.~~ Section 3.2 does not apply for suspended Inactive issuers or Issuers suspended pursuant to s. 5.1(a). Such Issuers will be delisted in 90 days unless an application is made to requalify for listing pursuant to Policy 2 Qualification for Listing or Policy 8 Fundamental Changes and Changes of Business. If the Issuer's requalification application is approved, the Issuer will not be delisted and for Inactive Issuers, the inactive designation will be removed upon the approval. If the Issuer's requalification application is not approved, the Issuer will be delisted at the later of	**5.3 Suspensions – Inactive Issuers** Section 3.2 does not apply for suspended Inactive issuers or Issuers suspended pursuant to s. 5.1(a). Such Issuers will be delisted in 90 days unless an application is made to requalify for listing pursuant to Policy 2 Qualification for Listing or Policy 8 Fundamental Changes and Changes of Business. If the Issuer's requalification application is approved, the Issuer will not be delisted and for Inactive Issuers, the inactive designation will be removed upon the approval. If the Issuer's requalification application is not approved, the Issuer will be delisted at the later of the expiry of the 90 day suspension or the date of disapproval.

Blacklined version indicating changes to existing CSE Policies 1, 3 and 6	Version indicating changes incorporated
the expiry of the 90 day suspension or the date of disapproval. 5.4 Removal of the Inactive Designation An issuer that has, pursuant to section 5.1, received notice or been designated as inactive, will be considered inactive until: a) there is evidence in the Issuer's interim or audited financial statements, updated listing statement or other continuous disclosure document that confirms the Issuer meets the CLR; b) the Issuer requalifies for listing pursuant to Policy 2 or Policy 8; or c) the Exchange is otherwise satisfied that the issuer has met the CLR.	5.4 Removal of the Inactive Designation An issuer that has, pursuant to section 5.1, received notice or been designated as inactive, will be considered inactive until: a) there is evidence in the Issuer's interim or audited financial statements, updated listing statement or other continuous disclosure document that confirms the Issuer meets the CLR; b) the Issuer requalifies for listing pursuant to Policy 2 or Policy 8; or c) the Exchange is otherwise satisfied that the issuer has met the CLR.
POLICY 6 – DISTRIBUTIONS **2.4** Other than an Inactive Issuer, a ~~A~~ Listed Issuer with a bona fide intention to do a private placement may, on a confidential basis, request price protection based on the closing price on the Trading Day prior to the date on which notice is given to the Exchange. The price protection will expire if the private placement has not closed within 45 days of the day on which notice is given to the Exchange. An Inactive Issuer may not close a financing without prior Exchange approval.	**POLICY 6 – DISTRIBUTIONS** **2.4** Other than an Inactive Issuer, a Listed Issuer with a bona fide intention to do a private placement may, on a confidential basis, request price protection based on the closing price on the Trading Day prior to the date on which notice is given to the Exchange. The price protection will expire if the private placement has not closed within 45 days of the day on which notice is given to the Exchange. An Inactive Issuer may not close a financing without prior Exchange approval.

Appendix B

Blacklined version indicating changes to Policy 2 (published January 5, 2017)	Version indicating changes incorporated
Proposed Amendments to Policy 2 section 9	**Proposed Amendments to Policy 2 section 9**
9 Continuing to Qualify for Listing	**9 Continuing to Qualify for Listing**
9.1 To continue to qualify for listing, a Listed Issuer must meet all of the following requirements:	9.1 To continue to qualify for listing, a Listed Issuer must meet all of the following requirements:
a) the Listed Issuer must be in good standing under and not in default of applicable corporate law;	a) the Listed Issuer must be in good standing under and not in default of applicable corporate law;
b) the Listed Issuer must remain a reporting issuer or equivalent in good standing in each jurisdiction in which it is a reporting issuer or equivalent and must not be in default of any requirement of any such jurisdiction;	b) the Listed Issuer must remain a reporting issuer or equivalent in good standing in each jurisdiction in which it is a reporting issuer or equivalent and must not be in default of any requirement of any such jurisdiction;
c) the Listed Issuer must be in compliance with Exchange Requirements, and the terms of the Listing Agreement;	c) the Listed Issuer must be in compliance with Exchange Requirements, and the terms of the Listing Agreement;
d) the Listed Issuer must post all required documents and information required under the Policies of the Exchange;	d) the Listed Issuer must post all required documents and information required under the Policies of the Exchange;
e) the Listed Issuer must concurrently post all public documents submitted to SEDAR (unless identical disclosure has ~~not~~ already been posted in an Exchange-specific Form);	e) the Listed Issuer must concurrently post all public documents submitted to SEDAR (unless identical disclosure has ~~not~~ already been posted in an Exchange-specific Form);
f) if the Issuer is required to submit Personal Information Forms for each Related Person at the time of listing then the Listed Issuer must submit a Personal Information Form for any new Related Person of the Listed Issuer (and if any of these persons is not an individual, a Personal Information Form for each director, officer and each person who beneficially, directly or indirectly owns, controls or exercises direction over 20% or more of the voting rights of such non-individual);	f) if the Issuer is required to submit Personal Information Forms for each Related Person at the time of listing then the Listed Issuer must submit a Personal Information Form for any new Related Person of the Listed Issuer (and if any of these persons is not an individual, a Personal Information Form for each director, officer and each person who beneficially, directly or indirectly owns, controls or exercises direction over 20% or more of the voting rights of such non-individual);
g) the Listed Issuer must take all reasonable care to ensure that any statement, document or other information which is provided to or made available to the Exchange or posted by the Listed Issuer is not misleading, false or deceptive and does not omit anything likely to affect the import of such statement, document or other information~~.~~; and	g) the Listed Issuer must take all reasonable care to ensure that any statement, document or other information which is provided to or made available to the Exchange or posted by the Listed Issuer is not misleading, false or deceptive and does not omit anything likely to affect the import of such statement, document or other information; and
h) a Listed Issuer with equity securities listed must meet the continued listing requirements described in section 2.9 of Appendix A of this Policy.	h) a Listed Issuer with equity securities listed must meet the continued listing requirements described in section 2.9 of Appendix A of this Policy.
9.2 Significant Connection to Alberta	9.2 Significant Connection to Alberta
Each Listed Issuer that is not a reporting issuer in Alberta must:	Each Listed Issuer that is not a reporting issuer in Alberta must:
a) assess whether it has a significant connection	a) assess whether it has a significant connection

Blacklined version indicating changes to Policy 2 (published January 5, 2017)	Version indicating changes incorporated
to Alberta;	to Alberta;
b) upon becoming aware that it has a significant connection to Alberta as a result of complying with section 9.2 a) above or otherwise, immediately notify the Exchange and promptly make a *bona fide* application to the Alberta Securities Commission to be deemed to be a reporting issuer in Alberta (a Listed Issuer must become a reporting issuer in Alberta within six months of becoming aware that it has a significant connection to Alberta);	b) upon becoming aware that it has a significant connection to Alberta as a result of complying with section 9.2 a) above or otherwise, immediately notify the Exchange and promptly make a *bona fide* application to the Alberta Securities Commission to be deemed to be a reporting issuer in Alberta (a Listed Issuer must become a reporting issuer in Alberta within six months of becoming aware that it has a significant connection to Alberta);
c) assess, on an annual basis, in connection with the delivery of its annual financial statements to securityholders, whether it has a significant connection to Alberta;	c) assess, on an annual basis, in connection with the delivery of its annual financial statements to securityholders, whether it has a significant connection to Alberta;
d) obtain and maintain for a period of three years after each annual review referenced in this section, evidence of residency of their registered holders and beneficial holders; and	d) obtain and maintain for a period of three years after each annual review referenced in this section, evidence of residency of their registered holders and beneficial holders; and
e) if requested, provide to the Exchange evidence of the residency of its non-objecting beneficial owners (as defined in National Policy 54-101*Communication with Beneficial Owners of Securities of a Reporting Issuer* or its successor instruments).	e) if requested, provide to the Exchange evidence of the residency of its non-objecting beneficial owners (as defined in National Policy 54-101*Communication with Beneficial Owners of Securities of a Reporting Issuer* or its successor instruments).
9.3 Where it appears to the Exchange that an Issuer making an application for listing has a significant connection to Alberta, the Exchange will, as a condition of its acceptance or approval of the listing application, require the Issuer to provide evidence that it has made a *bona fide* application to the Alberta Securities Commission to become a reporting issuer in Alberta.	9.3 Where it appears to the Exchange that an Issuer making an application for listing has a significant connection to Alberta, the Exchange will, as a condition of its acceptance or approval of the listing application, require the Issuer to provide evidence that it has made a *bona fide* application to the Alberta Securities Commission to become a reporting issuer in Alberta.
Proposed Section 2.9 of Appendix A to Policy 2	Proposed Section 2.9 of Appendix A to Policy 2
Appendix A	Appendix A
Part A	Part A
2.9 Continued Listing Requirements	2.9 Continued Listing Requirements
In addition to the general requirements in Policy 2 Section 9.1, a Listed Issuer with equity securities listed must meet the specific criteria set out below on an annual basis:	In addition to the general requirements in Policy 2 Section 9.1, a Listed Issuer with equity securities listed must meet the specific criteria set out below on an annual basis:
a) Public distribution	a) Public distribution
(i) minimum of 250,000 shares in the public float;	(i) minimum of 250,000 shares in the public float;
(ii) 10% or more of listed shares in the public float;	(ii) 10% or more of listed shares in the public float;
(iii) at least 150 public securityholders each holding one board lot of freely trading shares, subject to the exception provided in Policy 9 that would permit no less than 100 public securityholders immediately	(iii) at least 150 public securityholders each holding one board lot of freely trading shares, subject to the exception provided in Policy 9 that would permit no less than 100 public securityholders immediately

Blacklined version indicating changes to Policy 2 (published January 5, 2017)	Version indicating changes incorporated
following a consolidation;	following a consolidation;
b) Financial Resources	b) Financial Resources
Adequate working capital or financial resources to maintain operations for a period of 6 months.	Adequate working capital or financial resources to maintain operations for a period of 6 months.
c) Assets	c) Assets
No prescribed requirement however the Exchange may determine that a Listed Issuer no longer meets the continued listing requirements if the Issuer:	No prescribed requirement however the Exchange may determine that a Listed Issuer no longer meets the continued listing requirements if the Issuer:
(i) reduces or impairs its principal operating assets; or	(i) reduces or impairs its principal operating assets; or
(ii) ceases or substantively reduces its business operations.	(ii) ceases or substantively reduces its business operations.
d) Activity	d) Activity
(i) For a mining or oil and gas issuer, either:	(i) For a mining or oil and gas issuer, either:
1) For the most recent fiscal year, positive cash flow, significant revenue from operations, or $50,000 in exploration or development expenditures; or	1) For the most recent fiscal year, positive cash flow, significant revenue from operations, or $50,000 in exploration or development expenditures; or
2) For the three most recent fiscal years, an aggregate of $100,000 in exploration or development expenditures.	2) For the three most recent fiscal years, an aggregate of $100,000 in exploration or development expenditures.
ii) For industry segments other than mining or oil & gas, either:	(ii) For industry segments other than mining or oil & gas, either:
1) For the most recent fiscal year:	1) For the most recent fiscal year:
a) Positive cash flow;	a) Positive cash flow;
b) $100,000 in revenue from operations	b) $100,000 in revenue from operations;
c) $100,000 of development expenditures	c) $100,000 of development expenditures
or	or
2) For the three most recent fiscal years, either $200,000 in operating revenues or $200,000 in expenditures directly related to the development of the business.	2) For the three most recent fiscal years, either $200,000 in operating revenues or $200,000 in expenditures directly related to the development of the business.

13.3 Clearing Agencies

13.3.1 Fundserv Inc. – New Rules for Service Providers Related to Access Standards – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

FUNDSERV INC. (FUNDSERV)

NEW RULES FOR SERVICE PROVIDERS RELATED TO ACCESS STANDARDS

The Ontario Securities Commission is publishing for public comment new Fundserv rules in respect of processing applications by prospective Service Providers (Rules). Fundserv has existing processes for onboarding new Service Providers. The Rules clearly establish those processes by way of written procedures to ensure that any industry participant, wishing to become a Service Provider that is connected to the Fundserv network, understands the onboarding process.

A copy of the Fundserv Notice is published on our website at http://www.osc.gov.on.ca. As noted in the Fundserv Notice, please send comments to communications@fundserv.com. Comments should also be provided to the Ontario Securities Commission by forwarding a copy to:

Manager, Market Regulation
Market Regulation Branch
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8
Fax: 416-595-8940
Email: marketregulation@osc.gov.on.ca

The comment period ends on May 22, 2018.

13.3.2 CDCC – Proposed Amendments to the Risk Manual Introducing an Amended Methodology to Compute Mismatched Settlement Risk – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

**PROPOSED AMENDMENTS TO THE RISK MANUAL
INTRODUCING AN AMENDED METHODOLOGY
TO COMPUTE MISMATCHED SETTLEMENT RISK**

The Ontario Securities Commission is publishing for public comment amendments to CDCC's Risk Manual in order to introduce an amended methodology to compute mismatched settlement risk. The purpose of the proposed amendments is ensure that sufficient financial resources are available to CDCC with respect to those settlements and to improve the risk assessment of the Clearing Members.

The comment period ends May 25, 2018.

A copy of the CDCC Notice is published on our website at http://www.osc.gov.on.ca.

Chapter 25

Other Information

25.1 Exemptions

25.1.1 Spartan Fund Management Inc. and StoneCastle Cannabis Growth Fund – Part 6 pf NI 81-101 Mutual Fund Prospectus Disclosure

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from ss.2.1(2) of NI 81-101 to file a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 2.1(2), 6.1.

April 16, 2018

Borden Ladner Gervais LLP

Attention: Lynn M. McGrade & Chelsea Papadatos

Dear Sir/Madam:

Re: Spartan Fund Management Inc. (the Filer)

Preliminary Simplified Prospectus dated December 28, 2017

StoneCastle Cannabis Growth Fund (the Fund)

Exemptive Relief Application under Part 6 of National Instrument 81-101 Mutual Fund Prospectus Disclosure (NI 81-101)

Application No. 2018/0191; SEDAR Project Number 2713828

By letter dated April 13, 2018 (the Application), the Filer, as manager of the Funds, applied on behalf of the Funds to the Director of the Ontario Securities Commission (the Director) under section 6.1 of NI 81-101 for relief from the operation of subsection 2.1(2) of NI 81-101, which prohibits an issuer from filing a final prospectus more than 90 days after the date of the receipt for the preliminary prospectus which relates to the final prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Fund's final prospectus, subject to the condition that the final prospectus be filed by no later than **April 27, 2018**.

Yours very truly,

"Raymond Chan"
Manager, Investment Funds & Structured Products Branch
Ontario Securities Commission

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