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CSA Staff Notice 81-330
Status Report on Consultation on Embedded Commissions and Next Steps

June 21, 2018

Introduction

On January 10, 2017, the Canadian Securities Administrators (the **CSA** or **we**) published for comment CSA Consultation Paper 81-408 *Consultation on the Option of Discontinuing Embedded Commissions* (the **Consultation Paper**). The purpose of this notice is to provide a summary of the consultation process and the feedback received, and to announce the CSA's policy decision and next steps.

Executive Summary

In the Consultation Paper, the CSA identified and discussed three key investor protection and market efficiency issues arising from the prevailing practice of investment fund managers remunerating dealers and their representatives for mutual fund sales through commissions, including sales and trailing commissions (**embedded commissions**). We also sought feedback on the option of discontinuing embedded commissions as a regulatory response to the identified issues, the potential impacts to both market participants and investors of such a change, and other alternatives that could sufficiently mitigate the identified issues.

Since the publication of the Consultation Paper, the CSA have evaluated all feedback received throughout the consultation process, including through written submissions and numerous in-person consultations. Further to our evaluation of all feedback received, we are proposing the following policy changes:

- to implement enhanced conflict of interest mitigation rules and guidance for dealers and representatives requiring that all existing and reasonably foreseeable conflicts of interest, including conflicts arising from the payment of embedded commissions, either be addressed in the best interests of clients or avoided – we refer you to the CSA Notice and Request for Comment published today, seeking comment on a proposed set of regulatory amendments (the **Proposed Amendments**) to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) and Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**31-103CP**). The conflicts of interest requirements are fundamental registrant conduct obligations that protect investors, and the Proposed Amendments to the conflicts of interest requirements will raise the bar for registrant conduct;

- to prohibit all forms of the deferred sales charge option,[1] including low-load options[2] (collectively, the **DSC option**) and their associated upfront commissions in respect of the purchase of securities of a prospectus qualified mutual fund; and

[1] Under the deferred sales charge option, the investor does not pay a sales charge for fund securities purchased, but may have to pay a redemption fee to the investment fund manager (i.e. a deferred sales charge) if the securities are sold before a predetermined period of typically 5 to 7 years from the date of purchase. Redemption fees decline according to a redemption schedule that is based on the length of time the investor holds the securities. While the investor does not pay a sales charge to the dealer, the investment fund manager pays the dealer both an upfront commission (typically equivalent to 5% of the purchase amount), and a trailing commission (which, during the period of the redemption schedule, is typically lower than the trailing commission paid in respect of the front-end and no-load purchase options). The investment fund manager may finance the payment of the upfront commission and accordingly incur financing costs that are included in the ongoing management fees charged to the fund.

[2] The low-load purchase option is a type of deferred sales charge option but has a shorter redemption schedule (usually 2 to 4 years). The upfront commission and redemption fees are correspondingly lower than the traditional deferred sales charge option.

- to prohibit the payment of trailing commissions to, and the solicitation and acceptance of trailing commissions by, dealers who do not make a suitability determination in connection with the distribution of prospectus qualified mutual fund securities.

In our view, these proposed policy changes, along with several other aspects of the Proposed Amendments, will create crucial enhancements to current practices that will better align the interests of investment fund managers, dealers and representatives with those of investors, and provide greater clarity on the services provided to investors and their associated costs. In doing so, we expect that these changes will respond to each of the important investor protection and market efficiency issues identified in the Consultation Paper, while at the same time minimizing potential adverse consequences to both market participants and investors.

We anticipate publishing a CSA Notice and Request for Comment in September of this year. This notice will include rule proposals for the elimination of the DSC option and trailing commission payments to dealers that do not make a suitability determination, as well as transition measures.

Consultation Paper Background

1. *Key Issues Examined*

The Consultation Paper identified and discussed three key investor protection and market efficiency issues arising from embedded commissions, namely that:

- embedded commissions raise conflicts of interest that misalign the interests of investment fund managers and dealers and representatives with those of investors;
- embedded commissions limit investor awareness, understanding and control of dealer compensation costs; and
- embedded commissions paid generally do not align with the services provided to investors.

The Consultation Paper also presented research and other evidence demonstrating how embedded commissions give rise to the investor protection and market efficiency issues. More specifically, the evidence gathered showed that embedded commissions can:

- incentivize investment fund managers to rely more on payments to dealers than on the generation of fund performance to gather and preserve assets under management, which in turn can lead to underperformance and drive up retail prices for investment products;
- incentivize dealers and their representatives to sell funds that compensate them the best or focus on only those funds that include an embedded commission rather than recommend a more suitable investment product;
- due to their opacity and complexity, inhibit investors' ability to assess and manage the impact of dealer compensation costs on their investment returns; and
- cause investors to pay, indirectly through fund management fees, dealer compensation that may not reflect the level of advice and service they actually receive.

2. *Purpose of the Consultation*

The Consultation Paper sought specific feedback, including evidence-based and data-driven analysis and perspectives, to build on the CSA's previous consultations on mutual fund fees[3] and to enable the CSA to make an informed policy decision on whether to discontinue embedded commissions. Specifically, the purpose of the consultation was to:

[3] The Consultation Paper follows the CSA's initial consultation on mutual fund fees under CSA Discussion Paper and Request for Comment 81-407 *Mutual Fund Fees* (the **Discussion Paper**), published on December 13, 2012, where the CSA first discussed its concerns regarding mutual fund fees, including embedded commissions, and sought comments on a range of potential options, including the option of discontinuing embedded commissions, to address these issues. The Ontario Securities Commission (**OSC**), Autorité des marchés financiers (**AMF**) and British Columbia Securities Commission subsequently held in-person consultations with stakeholders over the course of the summer and fall of 2013 to probe deeper into themes emerging from the comment letters which included: (i) the role embedded commissions play in access to advice for small retail investors in the Canadian market; (ii) the nature and scope of the services received for trailing commissions; and (iii) the impact of current disclosure initiatives and whether regulatory action beyond disclosure is warranted. We refer you to CSA Staff Notice 81-323 *Status Report on Consultation under CSA Discussion Paper and Request for Comment 81-407 Mutual Fund Fees* published on December 19, 2013, for an overview of the key themes that emerged from the comment process on the Discussion Paper and the subsequent in-person consultations.

- assess the potential impact on investors and market participants of discontinuing embedded commissions, including the potential impact on the provision and accessibility of advice for Canadian investors, as well as business models and market structure;

- identify potential mitigation and transition measures that could minimize the negative impacts of discontinuing embedded commissions; and

- identify alternative solutions that could sufficiently manage or mitigate the identified investor protection and market efficiency issues.

3. *The Consultation Process*

The 150-day comment period on the Consultation Paper ended on June 9, 2017. We received 142 public comment letters from various industry and investor stakeholders. Approximately 84% of the comment letters we received were from industry stakeholders (including dealers, representatives, investment fund managers, industry associations and industry service providers) and approximately 16% of the comment letters were from non-industry stakeholders (including investors and investor advocates).

The CSA also engaged in extensive in-person consultations following the publication of the Consultation Paper, including registrant outreach sessions, public information sessions, meetings with individuals as well as groups of stakeholders, speaking engagements, town halls and roundtables.[4] These in-person consultations, which were held in various CSA jurisdictions over the course of 2017, provided an opportunity to gather additional stakeholder feedback. Among other topics, this feedback provided input on the impacts of discontinuing embedded commissions and on alternative measures that could respond to the issues outlined in the Consultation Paper and lessen the risk of negative consequences to the fund industry and investors.[5] In addition, the AMF and Alberta Securities Commission (the ASC) conducted research to gain further insight on investor perceptions.

We thank those who contributed to this consultation process by responding to our request for comments or by participating in one or more of the in-person consultations described above. We appreciate the time that stakeholders have taken to provide detailed, very extensive and thoughtful comments, including relevant data and research, to help inform our policy decision on embedded commissions. Below, we provide an overview of the comments received from fund industry stakeholders as well as investors and investor advocates.

Consultation Feedback

In the discussion that follows, we provide a summary of the comments received throughout the consultation process (i.e. written submissions and in-person consultations). We separately discuss both the majority and minority views of fund industry stakeholders and of investors and investor advocates. We then discuss some initiatives completed by the AMF and the ASC to gain further insight on investor perceptions.

1. *Fund Industry – Majority View*

The majority of fund industry stakeholders were strongly opposed to the discontinuation of all forms of embedded commissions and a mandated move to direct-pay arrangements.

Below, we outline some of the key themes put forth by this group of stakeholders that highlight why they opposed a potential ban.

(i) *Recent and current regulatory reforms may address the key issues*

The majority were critical of the fact that this consultation came shortly after the implementation of new disclosure requirements and other proposals that are significant for the fund industry and that, in their view, may mitigate the issues identified in the Consultation Paper. These include the implementation of the Fund Facts document[6] required to be delivered at the point of sale (the **POS reforms**) and the annual report to clients on charges and other compensation paid to the dealer firm[7] (the **CRM2 reforms**), as well as the publication of a separate consultation on proposals to enhance the obligations of registrants toward

[4] The CSA held more than 40 in-person consultations in 2017 with various stakeholders.

[5] The various alternatives considered included the following: (i) standardizing or capping trailing commissions, (ii) implementing additional standards for the use of the DSC option, (iii) enhancements to disclosure documents, and (iv) requiring dealers and representatives to offer all clients the option of a direct-pay arrangement alongside an embedded commission option.

[6] The Fund Facts document discloses key information about a mutual fund, including cost and dealer compensation information such as the management expense ratio and trailing commission rates.

[7] The annual report to clients on charges and other compensation discloses the total dollar amount of trailing commission received by the dealer in connection with securities held in the client's account.

their clients.[8] In this regard, some stakeholders also remarked that the implementation of the POS and CRM2 reforms have already helped improve the awareness of fund fees by investors and have led to a decline in the offering of the DSC option.

(ii) *Additional research should be completed by the CSA before moving forward*

Several fund industry stakeholders suggested that we refrain from taking any substantive regulatory action until additional work and research is completed. In this regard, we received suggestions to:

- Conduct investor surveys to assess investors' preferences regarding payment for advice and evaluate how they may react if forced to pay directly for advice, as well as further research evaluating the effect of direct-pay arrangements on investor outcomes;

- Study market forces already affecting the fund industry to assess whether investor outcomes can be improved independent of regulation. Specific suggestions included assessments of declines in fund fees and fund fee complexity (through series simplification), shifts in fund flows from series with embedded commissions to fee-based series, shifts in fund flows to exchange traded funds (**ETFs**), and technological innovations such as the growth of online advisers;

- Commission an independent consultant to complete a comprehensive cost-benefit analysis of a discontinuation of embedded commissions that considers both the tangible and intangible costs to industry participants of this change; and

- Monitor compliance with the POS reforms and CRM2 reforms, and assess their impact on the behaviour of investors and registrants before determining whether any additional reforms are necessary.[9]

(iii) *A ban may lead to significant unintended consequences for the fund industry and investors*

Many also cautioned that discontinuing all forms of embedded commissions could lead to a number of negative impacts on both fund industry stakeholders and investors that would likely outweigh the potential benefits of a ban, including:

- *Reduced payment options for investors* – some argued that investors should continue to have the flexibility to choose between embedded compensation and direct-pay arrangements (rather than be required in all cases to pay directly under a direct-pay model);

- *Increased concentration and reduced competition in the market* – some suggested that the discontinuation of embedded commissions may favour firms that have scale and vertically integrated financial institutions[10] that already dominate the fund industry in Canada, and significantly disadvantage smaller and independent firms as these firms may face reduced profitability[11] and be forced to either consolidate, refocus their business on other products (e.g. insurance products) or leave the industry entirely. The view shared by many fund industry stakeholders was therefore that a ban may give a greater competitive advantage to large independent and vertically integrated firms at the expense of independent investment fund managers and dealers. Many also stated that a ban may consequently lead to greater concentration and less competition in the market, which may ultimately lead to fewer product offerings, less choice for investors, potentially higher prices over time, and less market innovation;

- *Failure to address all conflicts of interest* – some also argued that a ban may fail to eliminate all possible

[8] CSA Consultation Paper 33-404 – *Proposals to Enhance the Obligations of Advisers, Dealers and Representatives Toward their Clients*, April 28, 2016.

[9] In August 2016, the CSA commenced a multi-year research project to measure the impacts of CRM2 reforms and POS reforms on investors and the industry. The research will measure outcomes related to investor knowledge, attitude and behavior, registrant practices, and fund fees and product offerings. It will cover activity from 2016 through 2019 and is expected to be completed in 2021.

[10] The industry suggested that large vertically integrated financial institutions may be less impacted by the discontinuation of embedded commissions through their "captive dealer network", ability to cross-subsidize internally by reallocating costs and revenue streams across their range of business lines, and ability to remunerate their affiliated dealer entity through payments other than trailing commissions (such as internal transfer payments). In contrast, the industry argued independent dealer firms have no such ability to cross-subsidize the cost of their services and must assume most of their administrative and operating expenses as well as the salaries of their management and administrative staff.

[11] The industry suggested that smaller, independent dealers will face reduced profitability for a variety of reasons, including that the transition to direct-pay arrangements may require substantial changes to dealer business models, such as changes in information technology systems and in operational and compliance processes. The industry suggested that these changes will give rise to costs that may not be easily absorbed, resulting in further consolidation and vertical integration. The industry is also of the view that smaller, independent dealers who deal mostly with mass-market clients may cease to be economically viable if, in response to a ban, such clients stop using advice and the affected firms are not able to offset their loss of revenue and costs of the transition.

conflicts of interest that can impact dealer recommendations and investor outcomes.[12] For example, some suggested conflicts associated with dealer affiliation, which can skew recommendations toward proprietary products, can be even more detrimental to investor outcomes relative to conflicts related to embedded commissions. They also noted that a ban may increase the occurrence of existing conflicts of interest associated with the use of direct-pay arrangements;[13]

- *Regulatory arbitrage* – many submitted that dually licensed dealers and their representatives may be incentivized to reduce mutual fund sales and instead increase sales of non-securities financial products with embedded commissions, including insurance (e.g. segregated funds) and banking products (e.g. GICs, principal-protected notes). It was also noted that in other jurisdictions where embedded commissions were discontinued (e.g. Netherlands, the U.K. and Australia), the discontinuation applied across all investment products including insurance and banking products;

- *Tax consequences* – many noted that direct-pay arrangements may attract GST/HST or capital gains or losses where the service fee charged is paid through periodic redemptions of fund securities from a client's account; and

- *Impacts to financial advisor recruitment and succession planning* – stakeholders also argued that a prohibition on embedded commissions may make it more difficult for new financial advisors to enter the market and build their book of business. Stakeholders argued that these advisors typically begin their career advising new investors and those with smaller amounts to invest, for whom fee-based accounts may be uneconomical. Some argued that this limitation, together with the increasing regulatory burden, will make this career choice less attractive, reduce the number of entrants to the advice profession, and impede the succession planning of retiring advisors as there may be fewer advisors to succeed the significant number of advisors that are approaching retirement.

Many also submitted that mass-market investors, i.e., those with less than $100K in investable assets, may specifically be negatively impacted by the discontinuation of embedded commissions as follows:

- *Higher costs of financial advice and potentially higher investment costs overall* – stakeholders argued that embedded commissions permit dealers and their representatives to offer advice to mass-market investors at a lower price than they would otherwise charge under direct-pay arrangements.[14] They submitted that mass-market investors would consequently be required to pay more to receive the same face-to-face financial advice that they receive today if the industry was forced to move to a direct-pay model. These higher advice costs, when combined with the ongoing cost of the product (i.e. management fees and expenses), may result in higher overall total costs of ownership than under the current embedded commission model (to the extent the product costs are not reduced to offset the increased cost of advice);

- *Dealers may cease or reduce services for mass market accounts* – stakeholders noted that accounts below $100K may be uneconomical for several dealers to service under a direct-pay arrangement.[15] As a result, many dealers may choose to service only mid-to-higher net-worth investors, and reduce or cease offering services to mass-market investors;

- *Less access to and/or use of advice* – stakeholders argued that mass-market investors may not be able to afford the potentially higher cost of face-to-face advice under direct-pay arrangements, and may have less access to advice if dealers cease or reduce offering their services (as described above). They also argued that these investors may reduce their use of face-to-face advice due to a reluctance to pay directly for advice. In this regard, the industry submitted that investor reluctance to pay directly may be due to a perceived preference for the embedded commission model,[16] or a lack of frame of reference as to the value of financial

[12] Commenters referred to the compensation arrangements and incentives that give rise to conflicts of interest identified in CSA Staff Notice 33-318 *Review of Practices Firms Use to Compensate and Provide Incentives to their Representatives*, published December 15, 2016 (**CSA Staff Notice 33-318**).

[13] For example, some commenters noted that fee-based arrangements (i.e. where investors pay their dealer a percentage fee based on their assets under administration) may be susceptible to reverse churning, which is the practice of placing an investor in a fee-based account for no reason other than to collect an ongoing advice fee, with little or no ongoing advice and service being provided to the investor.

[14] Industry stakeholders submitted that under the embedded commission model, the cost of providing advice and services to mass-market investors is subsidized by the higher net-worth investors in the fund. The potential elimination of this pooling of fees from both higher-net worth and mass-market investors may cause the price of servicing mass-market investors to increase. Fund industry stakeholders further submitted that fee-based accounts are generally more expensive to operate for a dealer than embedded commission-based accounts due to higher administration and compliance costs.

[15] Industry stakeholders submitted that these accounts may be uneconomic due to the loss of the cross-subsidy associated with the embedded commission model and higher operational costs of fee-based accounts, as explained in footnote 14.

[16] Certain investor surveys commissioned by the fund industry suggested that investors have an express preference for the embedded

services and resulting lack of ability to assess the reasonableness of, and negotiate, direct fees for advice. They also stated that, as a consequence of mass-market investors having less access to and/or use of advice, these investors may have lower savings available for retirement; and

- *Alternative forms of advice may not meet investor needs* – we received submissions highlighting that investors who cannot access or afford face-to-face advice, or are unwilling to pay for the cost of that advice under direct-pay arrangements, may need to turn to discount channels (that do not provide advice) or lower-cost, automated advice channels, neither of which may correspond to their needs or desires.

(iv) *Alternatives to a ban that may limit adverse consequences should be considered*

While several industry stakeholders disputed the evidence we presented in the Consultation Paper on the harms from embedded commissions, they agreed with some of the areas of concern and acknowledged that there is room for improvement. Industry stakeholders therefore urged the CSA to consider alternative solutions that they believe would improve outcomes for investors while minimizing disruption for market participants. The most common suggestions included that we:

- *Monitor compliance with, and enforce, existing fund sales practices rules* – commenters suggested that we carry out comprehensive and coordinated compliance reviews of the current rules, including compliance with existing mutual fund sales practices rules under National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) and existing registrant requirements under NI 31-103, combined with the use of enforcement to deter misbehaviour;

- *Update existing fund sales practices rules* – many suggested that the application of NI 81-105 be expanded to other, similar investment products sold in the public and exempt markets arguing that like products should be treated similarly;

- *Pursue reforms to enhance the obligations of registrants toward their clients* – many commenters also suggested we continue to pursue amendments to NI 31-103. In particular, it was suggested that we address conflicts of interest associated with all types of compensation arrangements, as well as enhance the Know-Your-Client (**KYC**), Know-Your-Product (**KYP**) and suitability requirements to require consideration of the costs of each product recommended to a client and the impact of all fees. Other suggestions included raising proficiency and continuing education standards, especially for the identification and mitigation of conflicts of interest, as well as implementing restrictions on the use of titles;

- *Focus alternative efforts on improving the financial literacy of investors through enhanced disclosure* – for example, some suggested that to give the full picture of costs that reduce a client's investment, we expand the annual report to clients on charges and other compensation paid to dealers to also include disclosure of mutual fund product costs (management fees, administration fees, trading expenses) charged to the funds held by clients;

- *Require dealers to provide a direct-pay option* – some commenters suggested that we require dealers to offer to clients direct-pay options alongside embedded fee options and to explain the implications of each choice at the time of account opening;

- *Improve the alignment between the level of embedded commissions paid and the services provided to investors* – the comments we received varied, but generally included that we: (i) prescribe a list of minimum services that dealers/representatives must provide investors in return for the embedded commissions received, (ii) enhance dealer obligations to require dealers to establish policies and procedures as well as supervisory controls to ensure that investors receive a level of advice and service that is commensurate with the compensation paid (whether that payment is embedded or not), and (iii) require dealers to enter into a service level agreement with clients that specifies the embedded fees received as well as the advice and service provided by the dealer in exchange for those fees;

- *Cap or standardize embedded commissions* – we received many comments suggesting that we take measures to control the embedded commissions paid to dealers, for example by: (i) implementing a maximum trailing commission rate (i.e. "cap") across all asset classes, or a specific rate for each type of asset class, (ii) setting, as opposed to capping, a specific rate that can be applied across all asset classes, or a specific rate for each type of asset class, or (iii) requiring an investment fund manager to standardize rates within their fund family, for example, by asset class, purchase option, and/or distribution channel;

commission model versus the direct-pay model. For example, a May 2017 investor perception survey conducted by The Gandalf Group on behalf of AGF Investments Inc. found that: (i) given the choice of paying directly or indirectly for advice, 55% of investors said they prefer to pay indirectly, and (ii) if embedded commissions were eliminated and advisors were required to charge their clients directly, 24% of investors surveyed said that it would make them less likely to seek out advice.

- *Standardize naming conventions for fund series* – some suggested that standardized naming conventions for fund series could reduce complexity for investors and increase the comparability of MERs, trailing commissions and performance across fund families and fund categories, which could in turn eventually lead to more simplified mutual fund pricing;

- *Eliminate or regulate the use of the DSC option or allow its use only within established guidelines* – here the suggestions varied but included: (i) eliminating the DSC option, (ii) eliminating the traditional deferred sales charge option but maintaining the low-load purchase option, (iii) allowing the use of these options only within established guidelines (e.g. enhance suitability guidance for the DSC option to include specific reference to consideration of the client's age and investment time horizon); and/or (iv) requiring dealers rather than investors to pay redemption fees;

- *Prohibit discount brokers from receiving full trailing commissions on mutual funds* – commenters suggested that we allow only mutual fund series that do not pay trailing commissions (e.g. series F) or mutual fund series that pay reduced trailing commissions (e.g. series D paying trailing commissions of a maximum of 0.25%) in the discount brokerage channel;

- *Increase direct-to-client fund offerings* – for example, some suggested that we allow do-it-yourself (**DIY**) investors to purchase mutual funds with no embedded commissions (e.g. series F) directly from investment fund managers without the need for a dealer; and

- *Restrict representatives selling only proprietary products to the title "salesperson"* –some independent dealers suggested that dealers that sell only proprietary products should be restricted to the title "salesperson".

2. *Fund Industry – Minority View*

While the majority of fund industry commenters did not support the discontinuation of embedded commissions, a minority of representatives, dealers and investment fund managers whose business models generally do not rely on embedded commissions, supported such regulatory action. Generally, this group of stakeholders submitted that a ban would:

- reduce barriers to entry in the market to new product providers, which may increase the availability of lower-cost and innovative products in the market;

- increase cost transparency, product access, and cost competition leading to a wider range of investment products, including greater access to low-cost investment products;

- remove product bias on the part of the dealer and representative and ensure investment decisions are based on the suitability of the product rather than the compensation paid by product providers to the dealer and representatives;

- encourage representatives to focus on the quality of the product, of which cost is an important factor, potentially leading to better returns for investors; and

- provide the opportunity for representatives to highlight their value proposition and enable investors to clearly understand the costs of the services they are receiving.

3. *Investor and Investor Advocates – Majority View*

The majority of investors and investor advocates strongly supported the discontinuation of embedded commissions. Below, we outline some of the key reasons why this group favoured a ban:

- *Separation of advice costs from product costs is necessary to minimize bias and increase focus on quality* – commenters argued that the separation of the cost of advice from the cost of the investment product is essential to: (i) remove the product bias in representative recommendations, (ii) increase the representative's focus towards factors that are more aligned with the client's interest including product quality and cost, (iii) increase product and advice cost transparency and competition, (iv) reduce barriers to entry in the market and foster innovation, and (v) cause dealers and their representatives to show clients their value proposition;

- *Disclosure is insufficient to address compensation conflicts* – commenters also argued that compensation conflicts in the financial sector, such as those arising from embedded commissions, cannot be addressed through disclosure alone, even if that disclosure is prominent, specific and clear, and sets out the implications and consequences of the conflict for the client. In this regard, they argued that while the POS reforms and CRM2 reforms are worthwhile, they do not address the compensation structures that drive biased advice; and

- *A ban will not create an advice gap for mass-market investors; rather, it will lead to development of more effective options* – many stakeholders argued that a ban will provide a positive environment for the development and growth of online-advice as well as other forms of novel advice delivery, which will lead the fund industry to offer more transparent and cost-effective investment options. Some noted, however, that while a ban on embedded commissions is not expected to exacerbate an advice gap, it may result in some investors not being able to obtain advice in the form they prefer (e.g. face-to-face advice) and cause some to turn to alternative forms of advice (e.g. online-advice).

A majority of investors and investor advocates who supported a discontinuation of embedded commissions also recommended that the CSA take a number of additional regulatory actions to further enhance the advisor-client relationship, including the following:

- *Prohibit discount brokers from receiving trailing commissions on mutual funds* – commenters argued that discount brokerages should immediately be required to only offer trailing commission-free fund series (e.g. series F) and charge investors directly for the execution-only services they provide through a trade commission or other form of direct payment;

- *Adopt a statutory best interest standard and enhance NI 31-103* – some suggested that the CSA jurisdictions should adopt a statutory best interest standard along with further reforms to NI 31-103 such as the Proposed Amendments;

- *Require dealer firms that only offer proprietary products to open their product shelves* – commenters suggested that firms that currently only sell proprietary products should be required to open their product shelves to third party products in order to ensure that recommendations can be made in the interests of clients. They also called for increased compliance oversight of firms that offer a mix of proprietary and third-party products to ensure that sales incentives, compensation grids, performance targets, and internal transfer payments do not favour the sale of proprietary products;

- *Restrict representatives selling only proprietary products to the title "salesperson"* – similar to the suggestion raised by some independent dealers, it was suggested that dealers that sell only proprietary products should not be able to represent that they provide advice in the best interests of investors and that accordingly, their representatives should be restricted to the title "salesperson" to limit any potential misconception;

- *Monitor compliance with, and enforce, existing fund sales practices rules* – commenters suggested that the CSA, Investment Industry Regulatory Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA**) take immediate action to vigorously monitor compliance with existing rules and take enforcement action where conflicted compensation arrangements fall short of regulatory requirements and/or guidance such as those outlined in recent CSA and SRO Notices;[17]

- *Update existing fund sales practice rules* – commenters suggested that NI 81-105 should be modernized to capture all the sales practices used by the industry today, and that its application should be extended to products beyond mutual funds; and

- *Address all conflicted compensation structures* – commenters also argued that all types of compensation arrangements that can distort advice should be simultaneously prohibited. This includes: (i) embedded commissions paid by third parties in respect of any security, not just mutual funds; (ii) referral fees; (iii) dealer commissions paid out of underwriting commissions; (iv) monetary or non-monetary benefits by investment fund managers to dealers and representatives in connection with marketing and educational practices currently permitted under NI 81-105; and (v) internal transfer payments made by vertically integrated firms to their affiliated dealers for the sale of investment products.

[17] See CSA Staff Notice 33-318, MFDA Bulletin #0705-C (December 15, 2016) and IIROC Notices 16-0297 (December 15, 2016) and 17-0093 (April 27, 2017).

4. *Investor and Investor Advocates – Minority View*

A small minority of investors expressed concerns with a ban on embedded commissions, and agreed to a certain extent with the majority view of fund industry stakeholders. This group of stakeholders generally stated that discontinuing embedded commissions may:

- increase the cost of advice for small investors;
- fail to give investors control over advice costs as many investors with small amounts to invest will be unable to negotiate those costs;
- reduce investors' use of advice due to a reluctance to pay for it directly and a preference for the current embedded commission model;
- force some investors to switch to alternative forms of advice which may not meet their needs;
- fail to eliminate all compensation conflicts and potentially give rise to new conflicts; and
- increase the market share of vertically integrated firms at the expense of independent firms, resulting in an increase in the distribution of proprietary products and a decrease in product choice for investors over time.

5. *Investor Research – Insights*

In addition to the viewpoints received through written submissions and in-person consultations, the AMF and the ASC collected insights from research conducted in their respective jurisdictions in 2017.

More specifically, the AMF held three focus groups with a total of 27 individual retail investors to gain insights into investors' perceptions and knowledge about:

- the financial services they receive from their dealers and representatives;
- how their dealers are paid, how much and for what services they are being paid; and
- three common dealer compensation options (fee-based, trailing commissions and the DSC option).

The responses collected during these investor focus groups were very informative and helped the AMF better understand some investors' perceptions and viewpoints. For more details on the AMF investor focus groups, please visit the AMF website.

The ASC also conducted an online survey of Albertans that are investors, or will likely be investors within the next five years. The purpose of the survey was to assess participants' understanding of, and views on, embedded commissions. A total of 808 Albertans completed this survey. For a summary of the survey results, please visit the ASC website.

Policy Decision

Further to the CSA's consideration of the feedback received and the insights gained through our consultation process, we are proposing the following policy changes:

- to implement enhanced conflict of interest mitigation rules and guidance for dealers and representatives requiring that all existing and reasonably foreseeable conflicts of interest, including conflicts arising from the payment of embedded commissions, either be addressed in the best interests of clients or avoided – we refer you to the CSA Notice and Request for Comment published today, seeking comment on the Proposed Amendments;
- to prohibit all forms of the DSC option as well as their associated upfront commissions in respect of the purchase of securities of a prospectus qualified mutual fund (as defined in securities legislation); and
- to prohibit the payment of trailing commissions to, and the solicitation and acceptance of trailing commissions by, dealers who do not make a suitability determination in connection with the distribution of prospectus qualified mutual fund securities.

We discuss each of these proposed policy changes in further detail below, along with a discussion of related regulatory initiatives to improve disclosure as well as why we are not proposing to discontinue all embedded commissions. A discussion of

the potential benefits and impacts of our proposed policy changes on investors and market participants will follow in a CSA Notice and Request for Comment that we anticipate publishing in September of this year.

1. *Enhancing conflict of interest mitigation rules and guidance for dealers and representatives*

The Consultation Paper highlighted that the payment of embedded commissions encourages suboptimal behaviour of fund market participants, including that of investment fund managers and dealers and representatives, which reduces market efficiency and impairs investor outcomes. These issues appear to be driven by the inherent conflicts of interest associated with embedded commissions. For example, we find that embedded commissions may incentivize dealers and their representatives to favour funds that compensate them the best or to focus on only those funds that include an embedded commission, at the expense of other factors such as product quality. These incentives can impact both product shelf development and client recommendations.

In our view, these are fundamental issues that misalign the interests of market participants with those of the investors they serve. We are therefore of the view that regulatory action is required to mitigate the inherent conflicts of interest associated with embedded compensation and to ensure the investor's interest is paramount. Accordingly, we are proposing enhanced conflict of interest mitigation rules and guidance for dealers and representatives through the Proposed Amendments.

Specifically, and as further outlined in Part 13, Division 2 of the Proposed Amendments to NI 31-103 published today for comment, we are proposing rule amendments that will require both registered firms and their representatives to address all existing and reasonably foreseeable conflicts of interest in the best interest of a client. If the conflict cannot be addressed in the best interest of the client, then the registrant must avoid it. We are also proposing new requirements to document the conflicts identified and how they have been addressed in the best interests of clients, and to enhance the disclosure of such conflicts to clients.

As more particularly discussed in the Proposed Amendments to Part 13, Division 2 of 31-103CP, we state our view that it is a conflict for a registrant to receive third-party compensation (including embedded commissions). Third-party compensation has been broadly defined to mean any monetary or non-monetary benefit provided, or expected to be provided, directly or indirectly to a registrant by a party other than the registrant's client in connection with the client's purchase or ownership of a security through the registrant. We will also consider circumstances where registrants receive greater third-party compensation for the sale or recommendation of certain securities relative to others to be a conflict of interest.

Accordingly, and as further noted in the Proposed Amendments to Part 13, Division 2 of 31-103CP, to the extent a registered firm offers clients securities that provide third party compensation (including embedded commissions), we will expect registered firms to be able to demonstrate that both product shelf development and client recommendations are based on the quality of the security without influence from any third-party compensation associated with the security. We consider this a fundamental aspect of our proposal that we expect will significantly mitigate the conflicts of interest associated with third party compensation and strengthen the client-registrant relationship. In Part 13, Division 2 of 31-103CP, we also provide examples of controls that registered firms may consider to help mitigate third party compensation conflicts.

We recognize that these provisions impact the distribution of securities beyond mutual funds. We find that the identified issues are not unique to mutual funds, and therefore believe it is appropriate to apply these conflicts of interest mitigation principles to all securities distributed by a registrant. Furthermore, the enhanced conflicts of interest mitigation requirements allow for the holistic treatment of all types of conflicts arising from sales practices, compensation arrangements and other incentive practices that can bias dealer recommendations (such as those arising from the sale of proprietary products), not just conflicts arising from embedded compensation in mutual funds.

Moreover, as further outlined in the Proposed Amendments, the enhanced conflict of interest mitigation measures are accompanied by additional proposals that will further advance investors' interests. For example:

- the suitability obligation will introduce a new core requirement that registrants must put their clients' interests first when making a suitability determination. The obligation will also require a representative to explicitly consider the potential and actual impact of costs on client returns;

- the KYC rule will require a representative to gather more specific and comprehensive information relating to the client's personal circumstances, needs and objectives, risk profile, and time horizon, which will further support the enhanced suitability obligation;

- an express KYP rule will be implemented and designed to support the enhanced suitability obligation. For example, registered firms will be required to understand the essential elements of securities offered to clients, including the initial and ongoing costs of each security, the impact of those costs, as well as how each security made available to the client compares to similar securities available in the market; and

- firms will be required to make publicly available the information that potential clients would consider important in deciding whether to become a client of the firm. This disclosure would include providing general descriptions of the account types, products and services that the firm offers, the charges and other costs to clients, as well as third-party compensation associated with its products, services and accounts.

We expect that these proposals will significantly strengthen the nature of the client-registrant relationship, and will result in recommendations that better align with the client's interest. We also expect that the combined effect of these proposals will allow for the provision of advice and services that better meet an investor's needs and objectives, and over time, improve competition and market efficiency.

As also stated in the CSA Notice and Request for Comment published today, the CSA, IIROC, and the MFDA are committed to changes at the core of the Proposed Amendments which would require registrants to promote the best interests of clients and put clients' interests first. This is a fundamental change that emphasizes the client's interests in the client-registrant relationship.

2. *Discontinuing the use of the DSC option*

In our view, the conflicts of interest inherent in the DSC option give rise to a number of specific problematic practices and investor harms that warrant regulatory action. We consider, and several industry and investor stakeholders agree, that the conflicts of interest inherent in the DSC option are generally difficult to resolve in the best interests of investors and that this purchase option should therefore be eliminated.

We note that in Canada, the DSC option appears to be a relatively popular purchase option as it still forms a significant component of Canadian mutual fund assets. As at the end of December 2016, a total of 18% of mutual fund assets were held in the DSC option (with the low-load option comprising 5% of this figure).[18] We also note that the use of the DSC option tends to be an important purchase option among independent investment fund managers.[19] Additionally, we note that the Canadian fund market is quite unique in its relative reliance on the DSC option. For example, while making up almost 20% of mutual fund assets in Canada, this option makes up less than 1% of mutual fund assets in the United States and Europe.

The DSC option appears to be an attractive option for dealers and their representatives in Canada because it offers an initial commission of up to 5% of the purchase amount paid by the investment fund manager rather than the investor, plus an ongoing trailing commission. By comparison, alternative purchase options such as the front-end option generally require the dealer and investor to negotiate the initial commission, which is typically paid upfront and directly by the investor from the purchase proceeds. Today, these commissions can be as high as 5% but in most cases are less than 5% and can be as low as 0%.[20] In our view, the higher upfront and third-party nature of the compensation on the DSC option creates a conflict of interest that can incentivize dealers and representatives to promote the DSC option over other options that may be more suitable for investors.

The Consultation Paper highlighted several, long-standing problematic practices associated with the DSC option. For example, we noted that the use of the DSC option can lead to poor suitability assessments. A 2015 targeted sweep of MFDA Members' DSC option trading activity[21] demonstrated this, particularly with respect to senior investors. Among other practices, the sweep showed that clients were sold funds with DSC option redemption schedules that were longer than their investment time horizon, and showed that clients over the age of 70 were sold funds under DSC option arrangements.[22]

In December 2016, the MFDA identified further compensation and incentive practices that increase the risk of mis-selling funds under the DSC option.[23] MFDA enforcement files further show that the DSC option can incentivize dealers and their representatives to promote unsuitable leverage strategies or churn their client's accounts.[24]

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18 With respect to the growth of these options over the last several years, we note that the amount of mutual fund assets held in the traditional deferred sales charge option increased by 3% between 2010 and 2015, and the amount of mutual fund assets in the low-load option increased by 101% over the same period. We also note that several investment fund managers have recently discontinued, or have announced that they will discontinue, the traditional deferred sales charge option.

19 For example, in 2016 the DSC option comprised 21% of gross sales for independent investment fund managers and 31% of fund assets.

20 We note that the initial commission paid in respect of purchases under the front-end option has generally been declining over the last several years. The decline has been due to many factors including competition among dealers (who may also be offering no-load purchase options that do not charge an initial commission).

21 MFDA Bulletin #0670-C, 2015 *DSC Sweep Report*, December 18, 2015. See also MFDA bulletin #0705-C, *Review of Compensation, Incentives and Conflicts of Interest*, December 15, 2016, in which the MFDA identifies compensation and incentive practices that increased the risk of mis-selling funds under the DSC option.

22 Similarly, the *Inspections Branch of the AMF* also issued an *Info-Conformite* (volume 4, number 5) in July 2015 that reported important risks of non-compliance with the KYC rules among mutual fund dealers in Quebec. In particular, certain dealers' compliance systems permitted the sale of funds with DSC option redemption schedules to investors with short investment horizons.

23 MFDA bulletin #0705-C, Review of Compensation, Incentives and Conflicts of Interest (December 15, 2016).

24 See for example, the cases against Enzo DeVuono, George William Popovich, Michael Darrell Harvey, Tony Siu Fai Tong, Jacqueline De Backer, Carmine Paul Mazzotta and David John Ireland.

While the DSC option may, on its face, appear to be beneficial to investors because it does not require them to pay an initial commission, it can still have a significant impact on the investor because of its impact on investor behavior. This is due to the "lock-in" feature of the DSC option created by the redemption fee that is payable on investments that are redeemed within a certain number of years of purchase (typically up to 7 years from the date of purchase for the traditional deferred sales charge option). This penalty can significantly deter investors from redeeming an investment or changing their asset allocation, even in the face of consistently poor fund performance, unforeseen liquidity events, or change in their financial circumstance. Empirical mutual fund fee research commissioned by the CSA[25] demonstrates the effect the redemption penalty may have on an investor, as it indicates that investments made under the DSC option show the lowest sensitivity to past performance out of all available purchase options analyzed.[26]

Moreover, the complicated nature of this investment option can impede investor awareness and understanding of fund costs.[27] For example, investor complaints and other evidence gathered tends to demonstrate that, despite disclosure, investors may fail to appreciate that purchases under this option will be subject to a redemption fee prior to the expiry of the associated redemption schedule.

We also note that the use of the DSC option can lead to higher fund costs. This is due to the fact that an investment fund manager's cost to finance the payment of the upfront commission on purchases made on a DSC option basis is funded from the fund's annual management fees. Unless DSC option investors are segregated into a separate fund series to which the financing costs of the upfront commissions can be wholly allocated, all investors in a fund bear those financing costs irrespective of the purchase option under which they made their investment. This raises fairness concerns for investors under the front-end option who subsidize the financing costs of the upfront commission on DSC option transactions and accordingly pay higher management fees than they otherwise would.[28] Moreover, the upfront commission may not always align with the services provided to investors at the time of the sale.

In our view, the problematic practices and investor harms discussed above are significant and demonstrate the need for change. Compliance examinations, enforcement files, investor complaints, academic research and focus groups with individual investors highlight these problematic practices and the resulting harms to investors, and reinforce the need for regulatory action. Accordingly, we propose to prohibit all forms of the DSC option as well as their associated upfront commissions for purchases of prospectus qualified mutual funds (as defined under securities legislation).

We anticipate that this change will eliminate the problematic practices and investor harms associated with the DSC option, and bring with it a number of potential benefits. For example, we expect the elimination of the DSC option will remove conflicts of interest associated with this option and encourage suitability assessments that meet investors' needs and objectives, as well as increase investors' ability to make changes to their investments to improve their financial situation. We also expect that the elimination of this purchase option will decrease fund fee complexity and, by consequence, simplify the disclosure of fees, which may help improve investors' understanding and control of advisor compensation costs. We also anticipate modest declines in fund management fees and a reduction in the cross-subsidization of costs over time.

3. *Discontinuing trailing commissions where a suitability determination is not made*

The Consultation Paper highlighted concerns with fees paid for the distribution of mutual fund securities through the discount brokerage channel. Discount brokerages tend to be primarily order-takers and do not offer investment recommendations. Despite the limited services provided by discount brokerages, with few exceptions, they typically receive the same trailing commission that is provided to full-service dealers. This results in DIY investors who hold mutual fund securities through discount brokerages paying for investment advice that is not received or desired.

We note that investment fund managers have, over the last several years, attempted to respond to this issue by offering a discounted series of their funds on the discount brokerage channel. These series are typically denoted "series D" and pay a lower trailing commission than do the traditional full service retail series. We understand that the discounted pricing reflects the fact that investors who purchase through the discount brokerage channel typically make their own investment decisions and do not receive advice.

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[25] Douglas Cumming, Sofia Johan and Yelin Zhang, "A Dissection of Mutual Fund Fees and Performance", Feb. 8, 2016, http://www.osc.gov.on.ca/documents/en/Securities-Category8/rp_20160209_81-407_dissection-mutual-fund-fees.pdf.

[26] Investments made under the fee-based option show the highest sensitivity, followed by the front-end option, and again followed by the no-load option (under which no initial sales commission is paid to the dealer).

[27] For example, the DSC option has various features such as a redemption schedule, redemption fees, upfront sales commissions, and automatic conversion arrangements that cumulatively can be difficult for investors to understand.

[28] We note that very few Canadian investment fund managers offer a separate fund series for each purchase option. In those cases, the management fee of each fund series reflects the respective distribution costs of each series, thus reducing the cross-subsidization of commission costs between front-end and DSC option investors. The management fee rate of the DSC option series tends to be higher than that of the front-end series, thus reflecting the higher costs associated with the DSC option.

While the availability of series D has steadily increased over the last several years, we note that most investment fund managers today still do not offer a series D on their mutual fund lineup. Of those that do, we note that the series is generally only offered on a portion of their fund lineup. We also note that dealers may not make a series D option available to clients even in cases where the investment fund manager offers a series D purchase option. As a result, and as noted in the Consultation Paper, of the $30 billion held in mutual funds in the discount brokerage channel as at the end of 2015, only $4.6 billion was actually held in a discounted fund series. This suggests that 83% of mutual fund assets in the discount channel remain in full trailing commission-paying series.[29]

In our view, the fees paid by a vast majority of DIY investors in this channel do not appear to align with the execution-only nature of the services they receive. We also observe no justifiable rationale for the practice of paying discount brokerage dealers an ongoing trailing commission for the sale of a mutual fund. For example, other securities including most ETFs are commonly purchased and sold by way of an upfront transaction fee. This ongoing payment may therefore be viewed as one that incentivizes the distribution of mutual funds that pay such an ongoing fee over those that do not (i.e. a payment for shelf space), giving rise to a conflict of interest.[30] This is especially the case when the discount brokerage receives the same trailing commission as that of full-service dealers (which rate is typically intended to compensate full service dealers for the costs associated with providing investment advice). Moreover, in our view this fee also limits investor awareness and understanding of the fees associated with the purchase of such products in the discount brokerage channel.

In addition, we note that the issues discussed above are not unique to the purchase of mutual funds in the discount brokerage channel. In our view, similar issues arise in all cases where dealers who do not make a suitability determination receive a trailing commission (such as for example, a dealer who does not perform a suitability analysis in respect of a "permitted client" who has waived the suitability obligation).

To address potential conflicts in the discount brokerage channel and other instances where dealers do not make investment recommendations, as well as to better align the fees investors pay with the services they receive, we propose to prohibit investment fund managers from paying, and dealers from soliciting and accepting, trailing commissions (whether for advice or any other service), where the dealer does not make a suitability determination in connection with the distribution of prospectus qualified mutual fund securities.

We anticipate that these changes will bring a number of positive results for investors. In particular, we expect the reduction of conflicts of interest, as well as increased alignment between the costs paid and services provided. We also expect to see increased use of alternative, more salient forms of payment (such as trading commissions).

4. *Related Regulatory Initiatives to Improve Disclosure*

We note that on April 19, 2018, the MFDA published a discussion paper to solicit feedback from stakeholders on the potential expansion of cost reporting for investment funds (the **MFDA Discussion Paper**).[31] The MFDA Discussion Paper outlines a number of different approaches that can be integrated into existing reporting requirements with the objectives of better allowing investors to understand the ongoing costs of each investment fund they own, and their total costs of investing. We are supportive of the MFDA's efforts to consider improvements to current disclosure to meet these objectives, and expect to engage more closely with the MFDA and IIROC to advance this important initiative.

5. *Why the CSA is not banning all forms of embedded commissions*

The Consultation Paper examined the option of discontinuing all forms of embedded commissions to respond to the associated investor protection and market efficiency issues we identified.

We are instead pursuing a package of reforms that we expect will respond to each of the investor protection and market efficiency issues we identified, but at the same time, limit potential adverse consequences to market participants and investors. In this regard, we note the concerns expressed by stakeholders that discontinuing all forms of embedded commissions could lead to a range of potentially negative outcomes for both market participants and investors. Importantly, this package of reforms extends beyond conflicts of interest arising from embedded commissions, and is designed to respond to all types of conflicts that can incentivize poor registrant behavior and subvert investor interests (such as those arising from the sale of proprietary products).

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29 See tables 13 and 15 on pages 39 and 41 of the Consultation Paper.

30 We note that on April 9, 2018, IIROC published IIROC Notice 18-0075 (the **IIROC Notice**). The IIROC Notice includes guidance on the management of conflicts of interest associated with the offering of funds that pay an ongoing trailing commission to IIROC dealer members. We note that IIROC expects IIROC dealer members to make available, wherever possible, funds with a discounted trailing commission such as series D, and in instances where a discounted series is not available, to rebate the portion of the trailing commission for ongoing advice (or taking other similar steps).

31 See MFDA Bulletin #0748-P, available at: http://mfda.ca/bulletin/bulletin0748/

Accordingly, we think that our proposed policy direction is responsive to the feedback we received, and in particular, to the common viewpoints expressed by several industry and investor stakeholders urging the CSA to:

- adopt rules that holistically address all conflicts that can bias dealer recommendations, including conflicts from embedded commissions;
- eliminate the use of the DSC option; and
- eliminate trailing commission payments to discount brokerages.

Further to the implementation of the proposed policy changes together with the Proposed Amendments, we will monitor the extent to which these changes have addressed the key issues outlined in the Consultation Paper, including whether the management of conflicts of interests arising from embedded commissions is adequate.

Next Steps

Over the course of the 2018-2019 fiscal year, the CSA will continue to advance each of the elements of our policy decision.

In particular, in September of this year, we anticipate publishing a CSA Notice and Request for Comment that will include:

- a regulatory impact analysis, including the potential benefits and impacts of the proposed policy changes on investors and market participants;
- rule proposals for the elimination of the DSC option and trailing commission payments to dealers that do not make a suitability recommendation; and
- transition measures.

The CSA Notice and Request for Comment will provide further opportunity for meaningful input from stakeholders. Following the publication of the CSA Notice and Request for Comment, some CSA jurisdictions may hold in-person consultations to discuss the proposed policy changes.

The CSA will also consider and evaluate all feedback received in respect of the Proposed Amendments, and will continue to coordinate policy considerations between these two projects as we move forward. Additionally, we will continue to liaise with other regulators that oversee non-securities investment products on the development of our proposed policy changes.

Questions

Please refer your questions to any of the following:

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1.2 Notices of Hearing

1.2.1 Benedict Cheng et al. – ss. 127(1), 127.1

IN THE MATTER OF
BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN AND
ERIC TREMBLAY

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: June 15, 2018 at 11:30 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 June 12, 2018, between Staff of the Commission and Benedict Cheng in respect of the Amended Statement of Allegations filed by Staff of the Commission dated October 26, 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 13th day of June, 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 of Hearing with Related Statements of Allegations

1.3.1 Caldwell Investment Management Ltd. – ss. 127(1) and (2), 127.1

FILE NO.: 2018-36

IN THE MATTER OF
CALDWELL INVESTMENT MANAGEMENT LTD.

NOTICE OF HEARING
Subsections 127(1) and (2) and Section 127.1 of the
Securities Act, RSO 1990, c S.5

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: July 3, 2018 at 10:00 a.m.

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

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Commission to make the orders requested in the Statement of Allegations filed by Staff of the Commission on June 12, 2018.

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

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

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

Dated at Toronto this 14th day of June, 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
CALDWELL INVESTMENT MANAGEMENT LTD.

STATEMENT OF ALLEGATIONS
(Subsections 127(1) and (2) and Section 127.1 of the
Securities Act, RSO 1990, c S.5, as amended)

A. ORDERS SOUGHT:

1. Staff of the Enforcement Branch ("Staff") of the Ontario Securities Commission (the "Commission") requests that the Commission make the following orders:

   (i) pursuant to paragraph 1 of subsection 127(1) of the *Securities Act,* RSO 1990, c S.5, as amended (the "Act"), that the registration of Caldwell Investment Management Ltd. ("CIM" or the "Respondent") under Ontario securities law be terminated, or be suspended or restricted for such period as is specified by the Commission, or that terms and conditions be imposed on CIM's registration;

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

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

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

   (v) pursuant to section 127.1 of the Act, that CIM pay costs of the Commission investigation and the hearing; and

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

B. FACTS

2. Staff makes the following allegations of fact:

Overview

3. Best execution is a critical tool in ensuring protection for investors and investor confidence in the market.

4. Advisers, such as CIM, are required to make reasonable efforts to achieve best execution of orders when acting for clients. Best execution is defined as the most advantageous execution terms reasonably available under the circumstances. In order to meet the reasonable efforts standard, an adviser must have, and abide by, policies and procedures that outline the process it has designed toward the objective of achieving best execution. The policies and procedures should describe how the adviser evaluates whether best execution was obtained and should be regularly and rigorously reviewed.

5. Over an almost four year period, CIM failed in its obligation to provide best execution of equity and bond trades for its clients which resulted in overpayments by its clients.

6. CIM executed most of its client trades through Caldwell Securities Ltd., ("CSL") its own related investment dealer, placing it in a clear conflict of interest.

7. Notwithstanding the conflict of interest, CIM had inadequate policies and procedures in place to ensure that it sought best execution for its clients. CIM did not have an adequate process in place to ensure that it was obtaining the most advantageous execution terms reasonably available under the circumstances for its clients. CIM also did not regularly evaluate whether best execution was obtained for its clients.

8. Moreover, CIM made misleading statements to clients of the Mutual Funds (defined below) by asserting that the brokerage fees paid by the Mutual Funds would be paid at the most favourable rates available to the Mutual Funds.

9. Even though CIM had an Independent Review Committee (the "IRC") in place, the IRC was unable to properly monitor best execution practices because CIM provided inaccurate and insufficient information to the IRC.

Background

10. CIM was incorporated in Ontario in 1990. During the period of January 1, 2013 to November 15, 2016 inclusive) (the "Relevant Period"), CIM was registered as an adviser in the category of portfolio manager ("PM") and investment fund manager ("IFM") in Ontario and elsewhere.

11. During the Relevant Period, CIM acted as the IFM and PM for a number of Caldwell-related mutual funds, including the Caldwell Balanced Fund ("Balanced Fund") and the Caldwell Income Fund ("Income Fund") (together, the "Mutual Funds") and performed portfolio management services for clients under separately managed discretionary accounts ("SMAs").

12. CSL was incorporated in Ontario in 1980 and is registered as a dealer in the category of investment dealer in Ontario and elsewhere. CSL is also a member of the Investment Industry Regulatory Organization of Canada.

Conflict of Interest

13. The selection of a dealer should not be influenced by the adviser's self-interest. When there is a conflict of interest, advisers should ensure that they are putting their clients' interests ahead of their own interests.

14. CIM's Compliance Manuals (defined below) provided that "… it is likely that CIM would be considered to be a fiduciary in the context of its Clients due to the knowledge and power imbalance between the parties. CIM will conduct its affairs assuming it is in a fiduciary relationship with its Clients."

15. CIM's fiduciary duty to its clients (including the Mutual Funds) required CIM to place its clients' interests above its own interests when executing client trades.

16. CIM had a conflict of interest in directing client trades to CSL for execution given the common ownership of both CIM and CSL by Caldwell Financial Ltd. ("CFL").

17. This close relationship resulted in CIM choosing CSL to execute most of CIM's client trades despite the fact that equity commission rates and bond spreads in many cases were more favourable at unaffiliated dealers.

18. By choosing CSL as a dealer for the majority of CIM's client trades, CIM conferred a benefit on CSL in the form of commissions on equity trades and additional spreads or mark-ups on bond trades ("CSL Mark-Ups"). This selection ultimately conferred a benefit on CFL, the common shareholder of CIM and CSL.

19. For the Mutual Funds, CIM's conflict of interest was reviewed by the IRC. A standing instruction from the IRC required the brokerage arrangements with CSL to be at terms as favourable or more favourable than could be executed through another dealer. CIM certified semi-annually to the IRC that the standing instruction had been complied with.

20. As set out below, CIM provided both inaccurate and insufficient information to the IRC for it to properly carry out its responsibilities under National Instrument 81-107 *Independent Review Committee for Investment Funds* ("NI 81-107"), including the IRC's responsibility to review and assess the adequacy and effectiveness of the standing instructions to address CIM's brokerage arrangement with CSL.

The Investment Funds and the SMAs

21. During the Relevant Period, CIM managed approximately nine investment funds including the Mutual Funds. The Mutual Funds are reporting issuers and traded in both equities and bonds during the Relevant Period.

22. CIM also managed approximately 300 SMAs during the Relevant Period.

23. CIM's assets under management ranged from approximately $250 to $400 million during the Relevant Period.

CIM's Lack of Policies and Procedures Regarding Best Execution

24. During the Relevant Period, CIM's compliance policies and procedures were set out in the CIM compliance manuals updated December 2012 and June 2015 (the "Compliance Manuals").

25. During the Relevant Period, CIM failed: (i) to set out in writing its process for obtaining best execution; and/or (ii) to have a best execution process in place that included provisions for selecting dealers, trade evaluations, post-trade analyses or other evidence of reviews to evaluate whether CIM's best execution obligation was being met.

26. CIM failed to provide consistent explanations to Staff regarding CIM's policies and procedures regarding its best execution process. During Staff's investigation, CIM provided Staff with conflicting information about its process for executing bond trades during the Relevant Period. This conflicting information was the result of CIM not having clear, documented and consistent policies and procedures to describe CIM's trading process, including how it was designed to reasonably achieve best execution.

27. As a result of the conduct set out in this Statement of Allegations, CIM failed to meet its best execution obligation under section 4.2 of National Instrument 23-101 *Trading Rules* ("NI 23-101") during the Relevant Period.

CIM's Misleading Statements Regarding Best Execution to Mutual Fund Investors

28. Notwithstanding the lack of policies and procedures regarding best execution, CIM made representations to Mutual Fund investors regarding its overall best execution obligation.

29. CIM made the following statements in the Annual Information Forms ("AIFs") for the Mutual Funds during the Relevant Period:

> "The purchase and sale of portfolio securities will be arranged through registered brokers or dealers selected on the basis of [CIM's] assessment of the ability of the broker or dealer to execute transactions promptly and on favourable terms, and the quality and value of services provided to the Fund …
>
> Brokerage fees will be paid at the most favourable rates available to the Fund …
>
> [CIM] may also choose to execute a portion of the Funds' portfolio transactions with Caldwell Securities Ltd. (the Funds' principal distributor) on terms as favourable or more favourable to the Funds as those executed through other brokers and dealers." [emphasis added]

30. For many Mutual Fund trades, brokerage fees were not paid at the most favourable rates available to the Mutual Funds or on terms as favourable or more favourable to the Mutual Funds as those executed through other brokers and dealers.

31. Also, during the Relevant Period, the Income Fund executed all (and not a portion as stated in the AIFs) of its trades through CSL contrary to the representation in the AIFs to the Income Fund investors.

32. The statements made in the AIFs regarding brokerage fees being paid on the most favourable rates available to the Funds and the statement that the Income Fund may choose to execute a portion of its trades through CSL were misleading and/or untrue.

CIM's Misleading Statements Regarding Best Execution to SMA Clients

33. CIM's SMA clients signed an Investment Management Agreement ("IMA") with CIM as the PM. The IMA provided that unless the client specifies otherwise, CIM intends to execute transactions through CSL and that:

> "[CIM] shall at all times ensure that the prices charged, and services provided, by CSL are competitive … [CIM] shall secure best execution and the most favourable net transaction price for the Account having regard to various relevant factors including the size and type of the transaction, the nature and character of the markets for the relevant security, the execution experience, integrity, financial responsibility and commission rates charged by available brokers and dealers, as well as supplemental services and information which may be provided by some brokers and dealers to the Advisor in relation to investment decision-making services and order execution services …
>
> … the objective of securing the most favourable net transaction price for the Account does not obligate the Advisor to obtain the lowest net price. The Advisor is therefore authorized, to the extent permitted by applicable law, to commit the Account to pay a broker or dealer who furnishes investment decision-making and/or order execution services to the Advisor a commission for effecting a transaction which is higher than the commission that another broker or dealer would have charged for effecting such transactions provided the Advisor determines in good faith that the excess commission is reasonable in relation to the value of such investment decision-making and/or order execution services viewed in terms of the particular transaction or the Advisor's overall responsibilities with respect to the discretionary accounts managed by it"

34. SMA clients were also advised in the relationship disclosure document that when CIM used its discretion to trade securities in SMAs that CIM must seek to achieve the best possible result having regard to the price of the security, speed of execution, quality of execution and total transaction cost.

35. Contrary to the representations to SMA clients about seeking to achieve best execution and that CIM would determine in good faith that the excess commissions were reasonable, CIM was unable to provide Staff with evidence that CIM: (i) ensured that the prices charged and services provided by CSL were competitive; (ii) took into account and evaluated various relevant factors in deciding to use CSL as a dealer; and/or (iii) determined in good faith that excess commissions were reasonable in relation to the value of such investment decision-making and/or order execution services viewed in terms of the particular transaction.

Review of Equity Trades in the Mutual Funds and SMAs

36. Companion Policy 23-101 ("23-101CP") provides that one must consider a number of factors when considering whether the best execution obligation of an adviser has been met, including price, speed of execution, certainty of execution and the overall cost of the transaction. The overall cost of the transaction includes all costs associated with executing a trade that are passed on to a client, and includes the commission fees charged by a dealer for execution of orders.

37. Further, 23-101CP states that the "reasonable efforts" test does not require achieving best execution for each and every order when acting for a client. 23-101CP states that in making reasonable efforts to achieve best execution, the adviser should consider a number of factors, including assessing a client's portfolio objectives, selecting appropriate dealers and marketplaces and monitoring the results on an ongoing basis.

38. Staff reviewed trades for the Mutual Funds and SMA clients during the Relevant Period to understand CIM's trading process and the effect of CIM's lack of detailed policies and procedures regarding best execution.

(i) Balanced Fund

39. During the Relevant Period, the Balanced Fund executed approximately 66% of its equity trades with unaffiliated dealers at an average commission rate of $0.05 per share, which included compensation to the dealers for research provided to CIM. During the same period, approximately 34% of the Balanced Fund's equity trades were executed through CSL at an average commission rate of $0.16 per share, which did not include research to CIM.

40. A review of CIM's trading blotter revealed instances where the same security was traded for the Balanced Fund at CSL and at unaffiliated dealers for significantly different commission rates. Some examples of varying commissions, in which the CSL commission rates were higher by multiples of 4.4 to 13.4 when compared to commission rates from unaffiliated dealers for similar trades, are set out below:

Security	Account	B/S	Date traded	Quantity	Dealer	Commission/ share	Multiple over unaffiliated dealer
Bank Nova Scotia	Balanced Fund	B	2014-01-30	4400	CIBC	$0.05	
Bank Nova Scotia	Balanced Fund	B	2014-01-31	2000	CSL	$0.30	6x
Fedex Corp	Balanced Fund	S	2013-10-21	4500	Cowen	$0.05	
Fedex Corp	Balanced Fund	S	2013-11-06	4500	CSL	$0.67	13.4x
Timken Co	Balanced Fund	S	2013-01-25	1400	BMO	$0.05	
Timken Co	Balanced Fund	S	2013-02-05	1000	CSL	$0.55	11x
Verizon Comms	Balanced Fund	S	2015-09-22	10000	Cowen	$0.05	
Verizon Comms	Balanced Fund	S	2015-10-09	19000	CSL	$0.22	4.4x

41. Based on Staff's review of the Balanced Fund trades, during the Relevant Period, many trades executed through CSL were not done at the most favourable rates available.

42. Many Balanced Fund trades executed through CSL were not done on terms as favourable or more favourable as trades through unaffiliated dealers.

43. Again, CIM was unable to provide Staff with any evidence that it took steps to satisfy itself that, despite the excess rates charged by CSL, Balanced Fund equity trades executed through CSL were done on terms as favourable or more favourable as trades through unaffiliated dealers.

(ii) Income Fund

44. Some of the securities traded for the Income Fund through CSL were also traded for the Balanced Fund through unaffiliated dealers at significantly lower commission rates. Some comparative examples of the same security traded in the Income Fund through CSL, and in the Balanced Fund through unaffiliated dealers for significantly lower commission rates are set out below:

Security	Account	B/S	Date traded	Quantity	Dealer	Commission/ share	Multiple over unaffiliated dealer
Bank Nova Scotia	Balanced Fund	B	2013-12-16	4500	CIBC	$0.05	
Bank Nova Scotia	Income Fund	S	2015-11-17	2000	CSL	$0.30	6x
BCE	Balanced Fund	S	2013-01-09	8000	BMO	$0.05	
BCE	Income Fund	S	2016-04-15	3000	CSL	$0.30	6x
Onex	Balanced Fund	B	2013-06-04	3000	CIBC	$0.05	
Onex	Income Fund	S	2016-02-26	2000	CSL	$0.42	8x

45. Based on Staff's review of the Income Fund trades, during the Relevant Period, many trades executed through CSL were not done at the most favourable rates available.

46. Many Income Fund trades executed through CSL were not done on terms as favourable or more favourable as trades through unaffiliated dealers.

47. Again, CIM was unable to provide Staff with any evidence that it took steps to satisfy itself that, despite the excess rates charged by CSL, Balanced Fund equity trades executed through CSL were done on terms as favourable or more favourable as trades through unaffiliated dealers.

(iii) SMA Clients

48. CIM had three main categories of SMA clients paying commissions during the Relevant Period: (i) clients who were to pay 1.25% of gross dollar value of trades ("1.25% SMAs"); (ii) clients who were to pay 1.0% of gross dollar value of trades ("1% SMAs"); and (iii) clients who were to pay $0.10 per share for Canadian shares and 1.25% of gross dollar value for USD trades ("Insurance SMAs").

49. During the Relevant Period, CSL executed trades on behalf of CIM's SMA clients. The average commission rates for SMA clients were: (i) $0.22 per share for 1.25% SMAs; (ii) $0.19 per share for 1% SMAs; and (iii) $0.09 per share for Insurance SMAs.

50. Although CIM told clients that CIM shall secure best execution "having regard to various relevant factors including … commission rates charged by available brokers and dealers", CIM was unable to provide Staff with any evidence, including written policies and procedures, that CIM took steps to secure best execution of equity trades for its SMA clients. Rather, CIM automatically used CSL for trades for SMAs and did not check with other dealers to see if trades could be executed on more advantageous terms.

Review of Bond Trades in the Mutual Funds and SMAs

51. All bond trades for the Mutual Funds and the majority of bond trades for the SMA clients were executed through CSL. Most of these bond trades were in liquid Government of Ontario, Government of Canada and Crown corporation bonds.

52. During the Relevant Period, CSL did not carry any bonds in its inventory. CSL would buy or sell bonds for CIM by buying or selling the bonds from or to another investment dealer and adding an additional spread or CSL Mark-Up.

53. From a review of CIM's trading blotter, Staff learned there was a significant change in the amount of the CSL Mark-Up for the Mutual Funds towards the end of the Relevant Period. Starting on August 1, 2016, CIM and one of its PMs reached an agreement by which the CSL Mark-Up was reduced to $0.01 per $100 worth of bonds traded for the Mutual Funds (the "One Penny Practice"). The chart below sets out sample bond trades before and after the One Penny Practice.

Trade Date	Account Name	B/S	Quantity	Bond	Spread / $100	Total Spread	Net Amount	Before or After One Penny Practice
Mar 20, 2013	Balanced Fund	B	2,000,000	ON Prov 2.1% 08Sep18	$0.175	**$3,500**	$2,017,856	Before
Nov 15, 2016	Balanced Fund	B	2,000,000	CDA Govt 1.5% 01Jun26	$0.01	**$200**	$2,012,973	After
Apr 22, 2015	Balanced Fund	B	4,000,000	CDA Govt HSG Tr 1.2% 15Jun20	$0.15	**$6,000**	$3,989,797	Before
Sept 7, 2016	Balanced Fund	B	4,000,000	CDA Govt 1.5% 01Jun23	$0.01	**$400**	$4,212,932	After
Feb 26, 2013	Income Fund	S	4,375,000	ON Prov 2.85% 02Jun23	($0.23)	**$10,063**	$4,384,403	Before
Sept 27, 2016	Income Fund	S	4,300,000	CDA Govt 1.5% 01Jun26	($0.01)	**$430**	$4,533,157	After
Jun 3, 2014	Income Fund	B	5,000,000	ON Prov 2.1% 08Sep19	$0.18	**$9,000**	$5,024,603	Before
Sept 7, 2016	Income Fund	B	5,000,000	CDA Govt 1.5% 01 Jun 23	$0.01	**$500**	$5,266,164	After

54. During the Relevant Period, there were no CIM policies and procedures explaining: (i) how the CSL Mark-Up was determined; (ii) why a particular CSL Mark-Up was charged on a particular trade; and/or (iii) how or whether the interposition of CSL between unaffiliated dealers and CIM for client bond trades met CIM's best execution obligation.

55. CIM did not do any regular comparisons, analyses or reviews to assess whether CIM was providing best execution on bond trades for the Mutual Funds and SMA clients.

56. CIM's failure to commit the One Penny Practice to writing is further evidence of CIM's inadequate policies and procedures concerning best execution during the Relevant Period.

57. On several occasions during the Relevant Period, CIM sourced the bond price directly from an unaffiliated dealer and a CSL Mark-Up was still charged to the CIM client notwithstanding that a CSL trader was not directly involved.

58. In summary, many bond trades for the Mutual Funds and the SMA clients were not done on the most advantageous execution terms reasonably available under the circumstances.

CIM's Failure to Establish a System of Controls and Supervision

59. CIM had an obligation as a registered firm to have a system of adequate internal controls and supervision to ensure compliance with securities laws and to manage the risks associated with its business in accordance with prudent business practices.

60. The following demonstrate CIM's inadequate internal controls and supervision as part of a compliance system regarding its best execution obligation during the Relevant Period:

    a. CIM's lack of detailed written policies and procedures regarding its best execution obligation;

    b. The lack of policies and procedures setting out how the CSL Mark-Up on bond trades for CIM clients was determined;

    c. The lack of documentation evidencing the practice for pricing bond mark-ups, for the Mutual Funds at $0.01 per $100 worth of bonds as implemented by CIM on August 1, 2016;

    d. The conflicting descriptions of CIM's best execution obligation in the Compliance Manuals;

    e. The conflicting information provided to Staff about CIM's process during the Relevant Period for executing bond trades;

    f. CIM's failure to evaluate whether best execution had been achieved for client trades; and

    g. CIM's failure to provide sufficient information or perform analysis to support its certifications to the IRC, as detailed below.

61. CIM's failure to have adequate policies and procedures regarding best execution breached section 11.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103").

CIM's Failure to Provide Sufficient Information to IRC

62. As required by NI 81-107, CIM's IRC was established to deal with conflicts of interest which arose in the management of the Mutual Funds.

63. CIM's IRC had issued a series of semi-annual standing instructions to address the conflicts of interest created by CIM's brokerage arrangements with CSL. The IRC's standing instructions were in place from at least November 1, 2012 to October 31, 2016. Each of the standing instructions stated: "1. Brokerage arrangement with CSL must be executed at terms as favo[u]rable or more favo[u]rable than could be executed through another dealer".

64. For each of these semi-annual standing instructions, CIM provided a certification and an assessment to the IRC stating that there was a review of equity trades for the Mutual Funds and certifying that: "Equity trades were executed at terms as favo[u]rable or more favo[u]rable than could be executed through another dealer".

65. The representations made by CIM to the IRC that equity trades made through CSL for the Mutual Funds were executed at terms as favourable or more favourable than could be executed through another dealer were inaccurate and misleading.

66. CIM did not provide the IRC with all the information which it required to properly carry out its responsibilities under NI 81-107, including the IRC's responsibility to review and assess the adequacy and effectiveness of the standing instructions to address CIM's brokerage arrangement with CSL.

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

67. Staff alleges the following breaches of Ontario securities law during the Relevant Period:

    (a) CIM breached its best execution obligation under section 4.2 of NI 23-101 by placing most of its trades for execution through CSL, a related investment dealer, without having adequate policies and procedures or an adequate written process in place to ensure that CIM's best execution obligation was being met;

    (b) CIM had inadequate policies and procedures relating to its best execution obligation contrary to section 11.1 of NI 31-103; and

    (c) One or more of the representations made by CIM to the IRC were inaccurate and misleading and CIM did not provide the IRC with sufficient information for the IRC to properly carry out its responsibilities and therefore CIM breached subsection 2.4(1)(a) of NI 81-107.

68. Staff alleges that the conduct set out above including the misleading and/or untrue statements to Mutual Fund investors and SMA clients referred to in paragraphs 28 to 35 amounted to unfair market practices and procedures as set out in subsections 1.1 and 2.1 of the Act and was conduct contrary to the public interest.

69. Staff reserves the right to amend these allegations and to make such further and other allegations as Staff may advise and the Commission may permit.

DATED this 12th day of June, 2018.

1.5 Notices from the Office of the Secretary

1.5.1 Peter Volk

FOR IMMEDIATE RELEASE
June 13, 2018

PETER VOLK,
File No. 2018-27

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 Peter Volk.

A copy of the Order dated June 13, 2018, Settlement Agreement dated June 8, 2018 and Oral Reasons for Approval of a Settlement dated June 13, 2018 are available at www.osc.gov.on.ca.

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GRACE KNAKOWSKI
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media_inquiries@osc.gov.on.ca

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

1.5.2 Benedict Cheng et al.

FOR IMMEDIATE RELEASE
June 13, 2018

BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN and
ERIC TREMBLAY

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 Benedict Cheng in the above named matter.

The hearing will be held on June 15, 2018 at 11:30 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 June 13, 2018 is available at www.osc.gov.on.ca.

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1-877-785-1555 (Toll Free)

1.5.3 Royal Mutual Funds Inc.

FOR IMMEDIATE RELEASE
June 13, 2018

ROYAL MUTUAL FUNDS INC.,
File No. 2018-31

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 Royal Mutual Funds Inc.

A copy of the Order dated June 13, 2018, Settlement Agreement dated June 8, 2018 and Oral Reasons for Approval of a Settlement dated June 13, 2018 are available at www.osc.gov.on.ca.

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1-877-785-1555 (Toll Free)

1.5.4 Wayne Loderick Bennett

FOR IMMEDIATE RELEASE
June 14, 2018

WAYNE LODERICK BENNETT,
File No. 2018-24

TORONTO – The Commission issued its Reasons and Decision and an Order pursuant to Subsections 127(1) and 127(10) of the *Securities Act* in the above noted matter.

A copy of the Reasons and Decision and the Order dated June 13, 2018 are available at www.osc.gov.on.ca.

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1-877-785-1555 (Toll Free)

1.5.5 Clayton Smith

FOR IMMEDIATE RELEASE
June 14, 2018

CLAYTON SMITH,
File No. 2018-35

TORONTO – The Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Clayton Smith.

A copy of the Order dated June 14, 2018, Settlement Agreement dated May 28, 2018 and Oral Reasons for Approval of Settlement dated June 14, 2018 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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1-877-785-1555 (Toll Free)

1.5.6 Crystal Wealth Management System Limited et al.

FOR IMMEDIATE RELEASE
June 14, 2018

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

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

A copy of the Order dated June 14, 2018 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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

1.5.7 Caldwell Investment Management Ltd.

FOR IMMEDIATE RELEASE
June 14, 2018

CALDWELL INVESTMENT MANAGEMENT LTD.,
File No. 2018-36

TORONTO – The Office of the Secretary issued a Notice of Hearing on June 14, 2018 setting the matter down to be heard on July 3, 2018 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter. The hearing will be held at the offices of the Commission at 20 Queen Street West, 17th Floor, Toronto.

A copy of the Notice of Hearing dated June 14, 2018 and Statement of Allegations dated June 12, 2018 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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SECRETARY TO THE COMMISSION

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For investor inquiries:

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1-877-785-1555 (Toll Free)

1.5.8 Benedict Cheng et al.

FOR IMMEDIATE RELEASE
June 15, 2018

BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN and
ERIC TREMBLAY

TORONTO – Following a hearing held today, the Commission issued an Order approving the Settlement Agreement reached between Staff of the Commission and Benedict Cheng in the above named matter.

A copy of the Order dated June 15, 2018, Settlement Agreement dated June 12, 2018 and Oral Reasons for Approval of a Settlement dated June 15, 2018 are available at www.osc.gov.on.ca

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GRACE KNAKOWSKI
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For investor inquiries:

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1.5.9 Benedict Cheng et al.

FOR IMMEDIATE RELEASE
June 18, 2018

BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN and
ERIC TREMBLAY

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

A copy of the Order dated June 18, 2018 is available at www.osc.gov.on.ca.

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GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 AngelList, LLC and AngelList Advisors, LLC

Headnote

CSA Regulatory Sandbox initiative – Prior decision repealed and replaced with updated decision that reflects expanded scope of activity to be conducted in Canada by the Applicants. No new exemptive relief required by Applicants. Application previously applied for and obtained relief from certain registrant obligations contained in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103) and from the prospectus requirement in the Legislation – Filers operate novel online platform for accredited investors with experience in venture capital and angel investing and start-ups that primarily operate in the technology sector – relief granted subject to certain terms and conditions set out in the decision – decision is time-limited to allow the firm to operate in a test environment and will expire two years from the date of the prior decision – decision may be amended on written notice to the Filers – decision is based on the unique facts and circumstances of the Filers and is made on a time-limited, test case basis.

Applicable Legislative Provisions

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53, 74, 144.

Instrument Cited

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 12.10(2), 13.2(2)(c)(i), 13.3, 13.16, 14,2(2)(i), (j) and (k), 15.1 and Division 5.

June 14, 2018

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

AND

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

AND

IN THE MATTER OF
ANGELLIST, LLC
("AngelList")

and

ANGELLIST ADVISORS, LLC
("ALA", collectively with AngelList, the "Filers")

DECISION

Background

The Filers operate an online platform that offers a number of services to start-up businesses that operate primarily in the technology sector (**Start-ups**), including services to facilitate venture capital and angel investing in Start-ups that meet certain criteria. All investors on the platform must qualify as an accredited investor (as defined in Canadian securities legislation) (**Accredited Investors**) and must also have prior experience in venture capital and angel investing, such that they have an understanding of the risks of investing in Start-ups through the platform.

ALA is currently registered in all Canadian provinces as a restricted dealer. The Filers previously applied for and received exemptive relief from the prospectus requirement in a decision of the Ontario Securities Commission (**OSC**) as principal regulator (the **Prior Prospectus Decision**) and from certain registration obligations in a decision of the Director (the **Prior Registration Decision**) dated March 27, 2017 (together, the **Prior CSA Decision**) under the securities legislation of the jurisdiction of the principal regulator (the **Legislation**). The Prior CSA Decision was granted in the context of the CSA Regulatory Sandbox (as defined in paragraph 4(d)) initiative and was made on a time-limited, test case basis, based on the unique facts and circumstances of the Filers. ALA first became registered in Ontario as a restricted dealer on October 24, 2016 and at the same time obtained exemptive relief in Ontario from certain registration obligations (the **Initial Ontario decision**).

The Filers are seeking to amend the Prior CSA Decision in order to enable the offering of microfunds on their online platform to Canadian investors, subject to certain conditions. This amended decision (the **Decision**) has also been considered in the context of the CSA Regulatory Sandbox initiative and is made on a time-limited, test case basis. This Decision is based on the unique facts and circumstances of the Filers.

Relief from registrant obligations

1. The Filers have applied for exemptive relief pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) for ALA from the following:

    (a) the requirement in subsection 12.10(2) [*Audited financial statements*] of NI 31-103 that the annual financial statements delivered to the regulator must be audited (the **audited financial statement requirement**);

    (b) the requirement in subparagraph 13.2(2)(c)(i) [*Know-your-client*] of NI 31-103 that a registrant must take reasonable steps to ensure that it has sufficient information regarding the client's investment needs and objectives (the **know-your-client requirement**);

    (c) the requirement in section 13.3 [*Suitability*] of NI 31-103 that a registrant must take reasonable steps to ensure that, before it makes a recommendation to or accepts an instruction from a client to buy or sell a security, the purchase or sale is suitable for the client (the **suitability requirement**);

    (d) the requirement in section 13.16 of NI 31-103 [*dispute resolution service*] that a registered firm have a certain dispute resolution service provider (the **dispute resolution requirements**); and

    (e) the requirement to deliver the disclosure and reporting requirements in paragraphs 14.2(2)(i), (j), and (k) [*Relationship Disclosure Information*] and Division 5 [*Reporting to clients*] of Part 14 of NI 31-103 (the **disclosure and reporting requirements**) (together with the preceding paragraphs, referred to as the **Registrant Obligations Relief Sought**),

    provided that ALA ensures only Quality Investors (as defined in paragraph 4(i)) access the Restricted Services (as described in paragraph 21) and registration is limited to two years from the date of this Decision.

Prospectus Relief

2. ALA has applied for an exemption from the prospectus requirement in connection with distributions by an SPE (as defined in paragraph 35) or microfunds to Quality Investors who acquire securities of SPEs or microfunds through the platform (as described in this Decision) (the **Prospectus Relief Sought**).

Repeal and replacement of CSA decision

3. The Filers have applied to repeal the Prior CSA Decision effective as of the date of this Decision (the **Repeal and Replacement Relief Sought**).

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for the Registrant Obligations Relief Sought, the Prospectus Relief Sought and the Repeal and Replacement Relief Sought.

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

(a) the OSC (**Principal Regulator**) is the principal regulator for this application; and

(b) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 Passport System (**MI 11-102**) is intended to be relied upon in each of the other provinces of Canada.

Interpretation

4. For the purposes of this Decision:

(a) **Approved Incubator Program** means an incubator, accelerator, Technology Transfer Office or similar organization that meets all of the following criteria:

a. has a program for Start-ups and the program has been delivered for at least two years;

b. receives funding from (A) a federal, state, provincial/territorial, or municipal government or a crown corporation or a government-owned corporation or authority, or (B) an accredited university or college;

c. has a competitive application process with clear criteria to select Start-ups for the program;

d. reviews the founders and other key individuals involved in the Start-up to ensure they meet the criteria for admission into the program;

e. provides entrepreneurial advice and mentorship support over a reasonable period of time; and

f. in respect of which ALA has received the approval from staff of the securities regulatory authority in the local jurisdiction in which the incubator program is based that the organization qualifies as an "Approved Incubator Program".

(b) **Credible Investor** means an investor that meets one of the following criteria:

a. a Venture Capital Fund that has at least $10 million in assets under management; or

b. an individual investor who has led or participated in at least five investments in a Start-up, of which at least two of those Start-ups have completed a Successful Liquidity or Financing Event; or

c. is an Experienced Founder.

(c) **Crypto-assets** mean cryptocurrencies, digital coins or tokens, and operations to mine the foregoing.

(d) **CSA Regulatory Sandbox** means an initiative of the Canadian Securities Administrators (**CSA**) to review new and innovative technology-focused or digital business models. The objective of this initiative is to facilitate the ability of those businesses to use innovative products, services and applications, while ensuring appropriate investor protection.

(e) **Eligible Canadian Start-up** means a Start-up that is operating from or doing business in Canada where either a. or b. applies:

a. (i) the start-up is incorporated or organized under the laws of Canada or any jurisdiction of Canada, (ii) the head office of the start-up is located in Canada, and (iii) at least 25% of the directors and 25% of the Executive Officers or founders of the start-up (or at least one director and one Executive Officer or founder, if there are less than four directors and less than four Executive Officers or founders, respectively) reside in Canada; or

b. at least 25% of the consolidated payroll of the Start-up and its subsidiaries is for employees and consultants who reside in Canada.

(f) **Executive Officer** means an individual who is:

a. a chair, vice-chair, or president,

b. a vice-president in charge of a principal business unit, division or function including sales, finance, production, technology or engineering, or

c. performing a policy-making function in respect of the issuer.

(g) **Experienced Founder** means a founder of a Start-up who has:

a. management, product or engineering experience, typically with the title of "director" or equivalent, at a large technology company (500+ plus employees), or

b. co-founded, or served at the vice-president level or above of (in either case, with executive responsibilities), a Start-up that has achieved a Successful Liquidity or Financing Event.

(h) **Microfund** means a fund that invests in a variety of Start-ups identified in each case by the Microfund Lead Investor.

(i) **Quality Investor** means an Accredited Investor who has been determined by ALA's procedures, as described in paragraphs 74 to 76, to have sufficient experience in venture capital and angel investing.

(j) **Successful Liquidity or Financing Event** means:

a. an initial public offering (**IPO**);

b. an acquisition of all or substantially all the securities or assets of the Start-up; or

c. the completion of a follow-on round or "up round" of venture capital or angel financing for the Start-up involving external investors to the Start-up at that time, at a valuation in excess of the Start-up's previous round of financing or that triggered the automatic conversion of previously issued debt or equity securities. (For example, a Series Seed round to a Series A round.)

(k) **Technology Transfer Office** means an office at a university with an academic research program or at a research institute that is established to handle the intellectual property and licensing rights for faculty and student investors.

(l) **Venture Capital Fund** means:

a. In the United States (**U.S.**), a "venture capital fund" as defined in Rule 203(l)-1 under the *Investment Advisers Act of 1940*; and

b. In Canada, a venture capital fund that focuses primarily on venture capital or angel investing, and that is a non-individual permitted client.

5. Terms used in this Decision that are defined in the *Securities Act* (Ontario) (**Act**), National Instrument 14-101 *Definitions* (**NI 14-101**), NI 31-103 and MI 11-102 and not otherwise defined in the Decision, shall have the same meaning as in the Act, NI 14-101, NI 31-103 or MI 11-102 as applicable, unless the context otherwise requires.

Representations

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

The Filers

6. ALA is registered as a restricted dealer in each of the provinces of Canada.

7. ALA is a limited liability company formed under the laws of the state of Delaware. ALA is a subsidiary of AngelList, a limited liability company formed under the laws of the state of Delaware. A minority interest in ALA is held by AngelList EI, LLC (which is wholly-owned by employees of ALA or ALA's affiliates). The head offices of the Filers are in San Francisco, California, United States of America.

8. ALA is an "exempt reporting adviser" in the U.S. ALA relies on an exemption from SEC investment adviser registration requirements under sections 203(l) [*venture capital fund adviser exemption*] of the *Investment Advisers Act of 1940* and related rules. As an exempt reporting adviser, ALA is subject to oversight by the SEC, including the requirement to pay

fees to the SEC, to report annually certain information to the SEC and to have policies regarding the dissemination of material, non-public information and anti-fraud measures. ALA is also subject to review by the SEC.

9. The Filers are not registered as broker-dealers with the SEC under U.S. federal securities laws. The Filers rely on a no action letter issued to them by the SEC dated March 28, 2013 regarding the scope of their permitted activities in the U.S. without registering as broker-dealers in accordance with section 15(b) of the *Securities Exchange Act of 1934*. The Filers also rely on the no action letter issued to FundersClub Inc. and FundersClub Management LLC by the SEC dated March 26, 2013 with respect to their activities as an exempt reporting adviser. The Filers also rely on section 201(c) of the JOBS Act.

10. AngelList Ltd., an affiliate of the Filers, is authorized by the Financial Conduct Authority to carry on the following limited regulated activities in the United Kingdom: arranging (bringing about) deals in investments, dealing in investments as agent, and making arrangements with a view to transactions in investments. Through a passport process, AngelList Ltd. is permitted to carry out its permitted activities to countries in the European Economic Area.

11. The Filers wish to offer certain of the services (as described below) to issuers and investors in Canada. As these services will involve the facilitation of trades in securities of issuers to Quality Investors for the purposes of venture capital and angel investing, ALA is registered as a restricted dealer in each of the provinces of Canada.

12. The Filers are seeking the Prospectus Relief Sought and the Registrant Obligations Relief Sought to allow Quality Investors and issuers resident in the Canadian provinces to access the Restricted Services (as defined in paragraph 21).

13. The Filers are not in default of securities legislation in any jurisdiction of Canada. The Filers are in compliance in all material respects with U.S. and U.K. securities laws.

14. The Filers do not currently prepare financial statements that are audited. During the two year period applicable to the Filers' registration, the Filers will be working towards providing the Principal Regulator with annual financial statements audited in accordance with U.S. generally acceptable accounting principles and standards.

Services

Public Services

15. AngelList operates an online networking website (the **Platform**) that allows start-ups, accelerators, incubators, angel investors and other individuals in the start-up sector (together, the **Participants**) to connect with each other and to raise their profile in the start-up community. The Platform is primarily aimed at technology or technology-enabled Start-ups.

16. Any Participant can post a profile on the Platform that contains general information about itself, including, as applicable, its products or services, and its management team (a **Profile**). A Profile is publicly available to anyone accessing the Platform. A Start-up may also post confidential information and grant access only to certain Participants.

17. After setting up a Profile, a Participant may request a connection by visiting another Participant's profile (the **Connection Services**). AngelList will confirm the relationship between the Participants. A verified connection is required in order for a Participant to send other Participants a message or request an introduction to other Participant's connections.

18. Any Start-up can also post job openings on the Platform and seek applicants from Participants on the Platform for such job openings (the **Recruiting Services**) (together with the Connection Services, the **Public Services**).

Restricted Area and Restricted Services

19. The Platform includes a password protected area (the **restricted area**). Participants must apply to enter the restricted area, and ALA only permits Accredited Investors to enter the restricted area.

20. Once Participants have been approved for access to the restricted area, they may further apply to access certain services, which are referred to below as **Restricted Services**. ALA only permits Quality Investors to access the Restricted Services. Based on the Filers' experience in the United States, approximately 30% of U.S. accredited investors that apply to access the Restricted Services meet ALA's Quality Investor standard and are approved to use the Restricted Services.

21. The Restricted Services consist of the following:

    a. ALA allows both Start-ups and Syndicate Lead Investors (as defined in paragraph 27) the ability to raise money for a specific Start-up by forming a syndicate of investors through the Platform (the **Syndicate Services**).

    b. ALA allows Microfund Lead Investors (as defined in paragraph 39) the ability to raise money through the Platform for specific funds that invest in a variety of Start-ups identified in each case by the Microfund Lead Investor (the **Microfund Services**).

    c. ALA provides a transaction update email to Quality Investors. ALA has an algorithm that uses objective criteria to identify Start-ups seeking to raise capital from a syndicate of investors and provides a list of these Start-ups to Quality Investors who request this information.

    d. ALA offers a program for Quality Investors who plan to invest over USD$600,000 through the Platform (the **Professional Investor Program**). Under this program, ALA introduces these Quality Investors to Start-ups that do not wish to make it known publicly that they are raising capital through a syndicate.

22. In the U.S., accredited investors who are not Quality Investors may invest in diversified funds created by ALA (referred to as **Platform Funds**) that invest in a wide variety of syndicates on the Platform. ALA does not propose to offer Platform Funds or similar funds to Quality Investors in Canada.

Services Offered in Canada

23. AngelList makes the Public Services available to Participants.

24. ALA makes the Syndicate Services available to:

    a. Start-ups and Syndicate Lead Investors, and

    b. Quality Investors,

    subject to certain restrictions set out below.

25. ALA proposes to make the Microfund Services available to:

    a. Microfund Lead Investors, and

    b. Quality Investors,

    subject to certain restrictions set out below.

26. ALA will make the Professional Investor Program available to Quality Investors who qualify as a “permitted client” as defined in section 1.1 of NI 31-103.

Syndicate Services

27. Syndicates can be formed by the founder or management of a Start-up itself or by an investor who is investing in a single Start-up, who wishes to make this investment opportunity available to other investors (co-investors) on the same terms and conditions, and who has been reviewed and approved by ALA as described in paragraphs 78 to 86 (a **Syndicate Lead Investor**). Each syndicate only invests in securities of a single Start-up (a **syndicate**).

28. A Start-up or Syndicate Lead Investor requests approval from ALA to establish the syndicate.

29. ALA reviews the request from the Start-up or Syndicate Lead Investor and determines whether to allow the Start-up or Syndicate Lead Investor to form a syndicate. In reviewing a request to form a syndicate, ALA reviews the Start-up for the following features:

    a. Whether the Start-up is a growth-oriented technology or technology-enabled company that has the potential to develop into a large stand-alone business;

b. Whether the Start-up is focused on a product or service that will provide social, economic or environmental benefits or that is likely to meet a strong market demand; and

c. Whether, in ALA's opinion, the Start-up is likely to appeal to Quality Investors.

30. ALA will not permit reporting issuers or any public company in any other jurisdiction to form a syndicate on the Platform.

31. If ALA grants approval to form a syndicate, the Start-up or the Syndicate Lead Investor, as applicable, completes and posts an investor note (the **syndicate investor note**) about the syndicate on the restricted area of the Platform. The syndicate investor note contains factual information about the proposed capital raise, the Start-up to be invested in, any co-investors, the risks associated with investing in the Start-up, past financing of the Start-up, and other key investment terms and conditions.

32. Interested Quality Investors may conduct due diligence on the Syndicate Lead Investor and/or the Start-up. Quality Investors use their own judgment whether to invest in a syndicate.

33. Neither ALA nor the Syndicate Lead Investor nor the Start-up:

a. provide specific recommendations or advice to particular Quality Investors about the suitability of an investment in a Start-up through an SPE (as defined in paragraph 35); or

b. recommend or solicit any particular purchase or sale by a Quality Investor of an SPE's securities.

34. Interested Quality Investors may submit non-binding requests for additional information through the Platform to either the Start-up or Syndicate Lead Investor about the Start-up that is being syndicated.

35. If there is sufficient interest to proceed with closing a syndicate investment, ALA establishes a special purpose entity (**SPE**) to accept the funds from committed investors and to acquire the Start-up's securities. The SPE formed to invest in the Start-up is required under U.S. securities law to have 99 or fewer investors. For investments in Eligible Canadian Start-ups, for tax reasons Canadian investors may be, but need not be, aggregated into a parallel Canadian SPE. If used, a parallel Canadian SPE will otherwise invest on identical terms and conditions to a standard SPE.

36. ALA conducts a review of each Start-up's constating documents and Closing Documents (as defined in paragraph 54) to ensure they are consistent with the information in the Profile and the syndicate investor note, the results of any background checks and any accompanying materials or information provided to it by an investor, the Syndicate Lead Investor and/or the Start-up and determines if the Closing Documents are complete, consistent and not misleading. If it appears to ALA that the Closing Documents are incomplete, inconsistent or misleading, ALA will require the Closing Documents to be corrected, made complete, or clarified.

37. For their role in a syndicate, ALA and the Syndicate Lead Investor will only receive compensation equal to a portion of the increase in value, if any, of the investment as calculated at the termination of the investment in the SPE (the **Syndicate Carried Interest**), and will not receive any transaction-based compensation. None of the Filers, the Syndicate Lead Investor, nor any of their officers or directors receive any other form of commission or transaction-based compensation related to the Restricted Services, including the Syndicate Services.

38. From October 24, 2016 (being the date when ALA became registered in Ontario) to the date of this Decision, 286 Start-ups have raised capital from a syndicate on the platform pursuant to the terms and conditions of the Initial Ontario decision and the Prior CSA Decision. The Filers are in compliance with all of the terms and conditions of the Prior CSA Decision.

Microfund Services

39. Microfunds can be formed by an investor who intends to invest in a portfolio of Start-ups over a specified period and who wishes to make those investment opportunities available to other investors (co-investors) on the same terms and conditions, and who has been reviewed and approved by ALA as described in paragraphs 78 to 86 (a *Microfund Lead Investor*).

40. A Microfund Lead Investor requests approval from ALA to establish the microfund.

41. ALA reviews the request from the Microfund Lead Investor and determines whether to allow the Microfund Lead Investor to form a microfund. In reviewing a request to form a microfund, ALA reviews the Microfund Lead Investor and the proposed microfund for all of the following features:

a. The Microfund Lead Investor has been reviewed and approved by ALA as described in paragraphs 78 to 86;

b. The Microfund Lead Investor is a Credible Investor;

c. The Microfund Lead Investor is investing his or her own money in or alongside the microfund;

d. That any conflicts of interest that the Microfund Lead Investor might have in relation to the microfund are clearly articulated such that they can be appropriately disclosed to Quality Investors;

e. The investment thesis for the microfund; and

f. Whether, in ALA's opinion, the microfund is likely to appeal to Quality Investors.

42. Microfunds can invest in any technology Start-up identified by the Microfund Lead Investor that in the opinion of ALA is consistent with the microfund's investment thesis. The Filers have other policies and operational limitations that result in restrictions on certain types of investments being made by microfunds.

43. If ALA grants approval to form a microfund, the Microfund Lead Investor completes and posts an investor note (the **microfund investor note**) about the microfund on the restricted area of the Platform. The microfund investor note contains factual information about the Microfund Lead Investor's background, the microfund's investment thesis, the expected investment period, average deal size to be made in a start-up by the microfund and any conflicts of interest between the microfund lead investor and the microfund.

44. Interested Quality Investors may conduct due diligence on the Microfund Lead Investor. Quality Investors use their own judgment as to whether to invest in a microfund.

45. Neither ALA nor the Microfund Lead Investor nor any Start-up:

a. recommends to, or advises Quality Investors about the suitability of, an investment in a microfund; or

b. recommends or solicits any particular purchase or sale by a Quality Investor of a microfund's securities.

46. Interested Quality Investors may submit requests for additional information through the Platform to the Microfund Lead Investor about the microfund.

47. If there is sufficient interest to proceed with closing a microfund, ALA establishes a limited partnership or limited liability company (**LLC**) to accept the subscription funds from committed investors, and investors are issued limited partnership or LLC interests of the microfund in exchange for those funds. Subscription funds are deposited with the U.S. bank referred to in paragraphs 57 and 58.

48. When the Microfund Lead Investor wants to make an investment from the microfund into a specific Start-up, the Microfund Lead Investor informs ALA. ALA will verify that the investment conforms with the investment thesis and reviews any conflicts of interest the Microfund Lead Investor may have in relation to the investment. ALA will ensure that all required documents relating to the investment are provided to investors. Once ALA approves the investment, the U.S. bank referred to in paragraphs 57 and 58 will wire the required funds to the Start-up.

49. For their role in a microfund, ALA and the Microfund Lead Investor will only receive compensation equal to a portion of the increase in value, if any, of the investment as calculated at the termination of the investment in the microfund (the **Microfund Carried Interest**) and, in certain instances, a customary management fee (from 1 – 3%), split between ALA and the Microfund Lead Investor. None of the Filers, the Microfund Lead Investor, nor any of their officers or directors receive any other form of commission or transaction-based compensation related to the Microfund Services.

50. Each microfund has a common general partner or LLC manager that is supported in carrying out its duties by the Microfund Lead Investor. The Microfund Lead Investor contributes to the Start-ups that receive microfund investments in a similar manner to that of early-stage Canadian venture capital funds. This generally includes direct involvement in the appointment of managers by using the Microfund Lead Investor's network of contacts to source, recruit, vet and provide references for members of senior management of the Start-up, as well as key members of the Start-up's product development, business development or technology teams. The Microfund Lead Investor also represents the microfund in material management decisions affecting the Start-up that require the input of the Start-up's principal investors. At the early stage material decisions of this nature generally include whether to support financings, uses of capital and any material business decisions, and in later stages decisions requiring investor consent are usually formalized in protective contractual provisions.

Procedures Common to Syndicates and Microfunds

51. ALA has engaged an arms' length consulting and fund administration firm (the **SPE/Microfund Manager**) to provide administrative services in relation to the SPEs and microfunds. On behalf of ALA, the SPE/Microfund Manager handles the formation and organization of each SPE and microfund, certain closing procedures for the investments, securities filings, ongoing administration, and winding up the SPE or microfund where applicable.

52. The first time a Quality Investor invests with a syndicate or microfund, prior to closing of that syndicate or microfund, the Quality Investor is asked to confirm his or her interest in investing in Start-ups generally, and to acknowledge a series of risk warnings including warnings as to risk of total loss of the investment, illiquidity of the securities and dilution risk, and the need for the Quality Investor to conduct his or her own due diligence on the Start-up or microfund, as applicable. Detailed risk warning acknowledgements are not obtained from Quality Investors on subsequent investments; however, certain risks are acknowledged upon each Quality Investor's acceptance of the provisions of the Closing Documents.

53. For each syndicate or microfund, prior to closing that syndicate or microfund, the Quality Investor is also asked to reconfirm his or her accredited investor status. If a Quality Investor indicates that his or her status has changed such that he or she is no longer an accredited investor, the investor is not permitted to invest with the syndicate or microfund and is not permitted to access the restricted area of the Platform. Quality Investors electronically agree to and sign the SPE or microfund Closing Documents on the Platform and are provided with wire instructions for their investment amounts.

54. After a Quality Investor commits to making an investment with a syndicate or microfund, the Quality Investor receives the following:

    a. in the case of a syndicate, the SPE's operating or limited partnership agreement, the SPE's private placement memorandum, the subscription or purchase agreement for the purchase of securities of the SPE, an investor statement (which is a screen confirming how much the Quality Investor invested in the SPE and the corresponding investment by the SPE in the Start-up as of the specific date), a signature certificate (which is a screen showing the investor that documents have been digitally signed and a digital fingerprint provided for security reasons) and the syndicate investor note; or

    b. in the case of a microfund, the microfund's operating, limited partnership or LLC agreement (as applicable), the microfund's private placement memorandum, the subscription or purchase agreement for the purchase of securities of the microfund, an investor statement (which is a screen confirming how much the Quality Investor invested in the microfund), a signature certificate (which is a screen showing the investor that documents have been digitally signed and a digital fingerprint provided for security reasons) and the microfund investor note.

    The documents referred to above are the **Closing Documents**. The SPE/Microfund Manager will retain the Closing Documents for eight years.

55. Either the Filers or SPE/Microfund Manager will deliver electronically to the securities regulatory authority of each jurisdiction of Canada where a distribution occurs, any of the documents that constitute an offering memorandum (as defined under the Legislation). In the case of a syndicate, the Filers will inform the Start-up that the Start-up must deliver electronically to the securities regulatory authority of each jurisdiction of Canada where a distribution occurs a copy of any document that constitutes an offering memorandum (as defined under the Legislation) that has not already been delivered.

56. Prior to closing a syndicate or microfund, ALA uses a third party service (such as Blockscore or Jumio) to verify the identity of each Quality Investor. ALA also runs anti-money laundering and terrorist financing checks. The verification process and anti-money laundering and terrorist financing checks are performed on both individual and non-individual Quality Investors (entities). For non-individual Quality Investors, the Filers contact the investor by email to determine the identity of the individual principal(s) of the Quality Investor. AML and terrorist financing checks are performed through a politically exposed person (PEP) list and/or Office of Foreign Assets Control (OFAC) list search. Similar verification processes and checks will be performed for Canadian investors.

57. Neither the Filers nor the SPE nor the microfund holds, handles or controls any investor or Start-up funds. The funds are held by and deposited in a single trust account that has been established by a FDIC-member U.S. bank in the name of the bank for the benefit of investors investing through the Platform or, depending on the size of the syndicate or microfund and other considerations, a separate account in the name of the bank for the benefit of investors in the particular fund. The Filers do not intermingle their own monies in these accounts.

58. Once all expected funds have been received by the bank, the bank notifies ALA. ALA then issues advice to the bank to initiate funds transfer to the Start-up or, in the case of microfunds, ALA issues advice to the bank to initiate funds transfer to a Start-up when the applicable investment has been approved.

59. All Quality Investors in a syndicate are notified electronically that the investment by the SPE in the Start-up is finalized and to provide them with a copy of the final Closing Documents. Investors in microfunds are notified electronically from time to time that investments have been made by the microfund.

60. The Filers will utilize the same bank and procedures for investments in Eligible Canadian Start-ups completed on the Platform. Although initially the Platform will only support transactions denominated in U.S. dollars, the Filers plan to support transactions in Canadian dollars and utilize Canadian banking services as required for transactions in Canadian dollars.

61. Quality Investors have access to an individual account on the Platform where they may view information about the transaction and access copies of the Closing Documents. The Closing Documents will be retained and made available to Quality Investors through the Platform for at least eight years.

62. ALA requires that each investor in a syndicate or microfund pay a portion of the costs associated with the closing of the syndicate or microfund investment (such as legal fees) in proportion to the investor's investment.

63. Neither the syndicate nor the SPE or microfund, as applicable, borrows funds from investors or the public for any reason. The syndicate, the SPE or microfund, as applicable, and the Filers do not loan money or extend margin to investors that wish to invest in a Start-up as part of a syndicate or microfund.

64. The Filers do not facilitate any secondary trading of previously issued securities, whether originally issued to the members of a syndicate, the investors in a microfund or otherwise.

Professional Investor Program

65. ALA is involved with a number of syndicates in which the Start-up does not wish to disclose publicly that it is seeking funding (the **Private Syndicates**).

66. These Private Syndicates are only made available to Quality Investors who:

    a. intend to invest over USD$600,000 in syndicates through the Platform;

    b. invest, on average, at least USD$50,000 per month in syndicates;

    c. sign a non-disclosure agreement with ALA; and

    d. are able to make investment decisions in a timely manner.

67. ALA has automated functionality that matches between one to five Private Syndicates with the Quality Investor's selected objective criteria, based on filters that the Quality Investor selected when the Quality Investor signed up for the Professional Investor Program.

68. ALA provides the list of Private Syndicates to the Quality Investor.

69. The Quality Investor conducts his or her own due diligence on the Start-up of the Private Syndicate.

70. The Quality Investor will make his or her own decision as to which Private Syndicate to invest in. The same investment procedures that are used for a typical syndicate also apply to a Private Syndicate.

71. There are no fees for participating in the Professional Investor Program.

Participants

Investors

72. When opening an account with AngelList, each investor provides the Filers with the following information:

    a. The category of accredited investor the investor meets, which for Canadian investors will correspond to the definition of accredited investor in Canadian securities legislation;

b. The amount the investor has budgeted for investing in Start-ups on the Platform;

c. The investor's net worth band (e.g., > $1 million, > $2 million, > $5 million, with currency being denominated in U.S. dollars). For Canadian investors, bands will be denominated in Canadian dollars;

d. The proportion of the investor's net worth that the investor's budget for investing in Start-ups represents; and

e. The investor's experience in investing in Start-ups or working for or with private equity firms and venture capital firms and the investor's connection to other investors and Start-ups on the Platform.

The above-listed information is retained on the Platform by the Filers for 8 years.

73. In addition to providing the information in paragraph 72, each investor acknowledges the following risks associated with investing in Start-ups generally when signing up to access the Public Services and Restricted Services:

a. Risk of loss of an investor's entire investment in a Start-up;

b. Illiquidity risk;

c. No due diligence of a Start-up is conducted by the Filers;

d. Dilution risk;

e. Risk of change in the Start-up's plans, markets and products; and

f. No recommendation or advice is provided by the Filers to the investor.

In addition:

g. Prior to making an investment, the investor must acknowledge that he or she will receive limited or no initial or ongoing information about the investment; and

h. The syndicate investor note or microfund investor note (as applicable) will disclose any conflicts of interest that may exist.

The above-listed information is retained on the Platform or by ALA for 8 years.

74. ALA assesses each investor's experience and knowledge with respect to venture capital and angel investing based upon the following information:

a. The investor's previous venture capital and angel investments and the size of those investments (as declared by the investor);

b. The investor's connections to other founders and investors, and ALA's assessment of those founders and investors; and

c. ALA's judgement about an investor's previous venture capital and angel investing experience with other top investors and the investor's reputation.

75. Using a computer algorithm, ALA rates each investor on a scale of one to ten based on the information provided by the investor (a **Quality Investor Score**). Only investors with a Quality Investor Score of at least 6.5 out of 10 are approved by ALA as Quality Investors. In order to access the Restricted Services an investor must first be approved as a Quality Investor.

76. ALA does not initially approve an investor if the investor has an initial Quality Investor Score of less than 6.5 out of 10 or if the investor has indicated that he or she plans to invest more than 9% of his or her net worth in Start-ups. ALA may conduct a further review of these investors who are not initially approved. If ALA's manual review of the investor discloses information which would materially increase the investor's Quality Investor Score (for example, the investor has significant venture capital or angel investing experience that was not reflected on his or her profile on the Platform), the investor may be approved as a Quality Investor and permitted to invest in syndicates and microfunds through the Platform.

77. In Canada, Accredited Investors that are not Quality Investors will not be permitted to invest as part of a syndicate or microfund through the Platform and will not be permitted access to the Restricted Services.

Lead Investors

78. Only Accredited Investors can apply to be Syndicate Lead Investors or Microfund Lead Investors. ALA retains the right and full discretion to determine whether a person may act as a Syndicate Lead Investor or Microfund Lead Investor.

79. ALA reviews a potential Syndicate Lead Investor or Microfund Lead Investor for previous experience related to venture capital and angel investing by reviewing the Syndicate Lead Investor's or Microfund Lead Investor's activity on relevant social media and other websites (such as Crunchbase and Google).

80. ALA also reviews references provided by each Syndicate Lead Investor or Microfund Lead Investor related to his or her prior Start-up investments.

81. In addition to the qualifications outlined in paragraphs 79 and 80, Microfund Lead Investors must: (i) invest their own money into or alongside the microfund and (ii) clearly disclose any conflicts they might have to the microfund and clearly articulate what part of their deal flow will go through the microfund. Each Microfund Lead Investor must also be determined by ALA to be a Credible Investor.

82. In the case of syndicates, if ALA is not satisfied that a Syndicate Lead Investor has sufficient knowledge and experience related to Start-up and/or venture capital investing, ALA will also consider whether there is a Credible Investor involved in the syndicate and who is investing on the same terms and conditions as the investors in the syndicate.

83. Where ALA approves a Syndicate Lead Investor to form a syndicate or a Microfund Lead Investor to form a microfund, ALA requires each Syndicate Lead Investor or Microfund Lead Investor, as applicable, to sign an agreement with ALA. For so long as the Syndicate Lead Investor has an interest in the Start-up that the Syndicate Lead Investor has syndicated or the Microfund Lead Investor has an interest in the microfund, this agreement requires, among other things, the Syndicate Lead Investor or Microfund Lead Investor:

    a. To assist ALA and the SPE/Microfund Manager as necessary to allow ALA and the SPE/Microfund Manager to comply with applicable regulatory requirements pertaining to the syndicate or the microfund and the syndicate's or microfunds' investment in the Start-up,

    b. To provide ALA with information about the Start-ups invested in by the syndicate or microfund as required by ALA or the SPE/Microfund Manager to service the syndicate or the microfund, and

    c. To provide ALA with written notice of certain events, including subsequent investment in the Start-up by the Syndicate Lead Investor or Microfund Lead Investor, sale or transfer of the Syndicate Lead Investor's or Microfund Lead Investor's securities in the Start-up, and how the Syndicate Lead Investor or Microfund Lead Investor has voted.

84. Syndicate Lead Investors and Microfund Lead Investors are required to disclose all conflicts of interest to ALA and to potential Quality Investors. Conflicts of interest that must be disclosed include whether the Syndicate Lead Investor or Microfund Lead Investor invested in previous round of financing by the Start-up or a prospective portfolio company of the microfund, is an employee or officer of the Start-up or a prospective portfolio company of the microfund, or has family members working at the Start-up or a prospective portfolio company of the microfund, any other circumstances judged by ALA to constitute conflicts or potential conflicts.

85. A Syndicate Lead Investor invests either directly with the Start-up or alongside other investors in the syndicate on the same terms and conditions as the investors in the syndicate. A Microfund Lead Investor invests directly in the microfund or alongside the microfund on the same terms and conditions as the investors in the microfund.

86. Prior to the closing of the syndicate or the microfund, ALA conducts a background check on the Syndicate Lead Investor or Microfund Lead Investor as applicable (through a third party service provider), including criminal record, securities regulatory, AML, terrorist financing, and economic and political sanctions watch-lists.

Start-ups

87. ALA conducts background checks on the Start-up that a syndicate invests in, each founder (which generally includes the president or chief executive officer) of such Start-up (through a third party service provider) and the Syndicate Lead Investor, officers and directors of the syndicate before the close of a syndicate.

88. The background checks conducted by ALA for a syndicate include: criminal record, securities regulatory, AML terrorist financing, and economic and political sanctions watch-lists.

89. The Microfund Lead Investor performs due diligence on each Start-up and its founders in which the microfund invests.

90. ALA does not permit a syndicate to close, if any of the Start-up, its president or chief executive officer has pled guilty to or has been found guilty of an offence related to or has entered into a settlement agreement in a matter that involved fraud or securities violations or if the Start-up is bankrupt.

Additional Requirements

91. Canadian investors will only be permitted to invest in a Start-up that seeks to raise capital through a syndicate and in microfunds in one of the following circumstances:

    a. **Permitted Clients.** Canadian investors who qualify as permitted clients (as defined in section 1.1 of NI 31-103) and who waive the requirement for ALA to conduct a suitability assessment, in accordance with subsection 13.3(4) of NI 31-103, may (i) invest in any syndicate on the Platform, (ii) invest in any microfund on the Platform and (iii) participate in the Professional Investor Program.

    b. **The Start-up, or the Start-ups in a particular microfund, is participating in or within the past 24 months has successfully completed an Approved Incubator Program.** Canadian Quality Investors may invest in (i) syndicates in which the Start-up is an Eligible Canadian Start-up that is participating in or has successfully completed an Approved Incubator Program, or (ii) microfunds that only invest in Eligible Canadian Start-ups that are participating in or have successfully completed an Approved Incubator Program.

    c. **Other Start-ups or microfunds** – Subject to limits on the number of Canadian Quality Investors. Over the period commencing on March 27, 2017 and ending on March 27, 2019 up to a maximum of 1,000 Canadian Quality Investors may invest with one or more syndicates or microfunds that meet one of the following criteria:

        1. For Syndicates:

            a. The founder of the Start-up is an Experienced Founder.

            b. Either the Syndicate Lead Investor of the syndicate or at least one investor in the Start-up that the syndicate is investing in, other than the Syndicate Lead Investor, is a Credible Investor, and the syndicate is investing in the Start-up on the same terms and conditions as the Credible Investor.

            c. The Start-up has, within the previous three years, received funding from a federal, state, provincial or territorial government program that supports small business or Start-ups as part of its mandate, such as Business Development Bank of Canada, BDC Capital, the Investment Accelerator Fund, Ontario Centres of Excellence, the Federal Economic Development Agency for Southern Ontario and Investissement Québec.

        2. For microfunds: The Microfund Lead Investor is a Credible Investor and invests in or alongside the microfund on the same terms as the other microfund investors.

Decision

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

The decision of the Principal Regulator under the Legislation is that the Prior Prospectus Decision with respect to the Prior CSA Decision is repealed and the Prospectus Relief Sought is granted, provided that all of the following conditions are met:

1. The Filers have their head office or principal place of business in the U.S. or Canada.

2. The Filers are in compliance with the no action letter relating to broker-dealer registration issued to them by the SEC dated March 28, 2013 and the no action letter has not been modified or revoked.

3. ALA is an exempt reporting adviser in the U.S.

4. The Filers ensure that securities are only distributed to investors in Canada in accordance with the terms, conditions, restrictions and requirements applicable to the accredited investor exemption as set out in Canadian securities legislation, except the requirements in subsections 2.3(6) and (7) of NI 45-106 to obtain and retain a signed risk acknowledgement in the prescribed form.

5. For each distribution, either ALA, or the SPE/Microfund Manager on behalf of ALA, will file a completed Form 45-106F1 *Report of Exempt Distribution* (**Form 45-106F1**) in accordance with Part 6 of NI 45-106 within 10 days of the date of the distribution and will reference the accredited investor exemption as set out in section 2.3 of NI 45-106 as the "Exemption relied on" in Schedule 1 of Form 45-106F1.

6. For each distribution by the SPE or microfund, if an offering memorandum (as defined under the Legislation) is provided by the SPE to investors resident in a jurisdiction of Canada, either ALA or the SPE/Microfund Manager will deliver to the securities regulatory authority of each jurisdiction of Canada where the distribution occurs, a copy of the offering memorandum, or any amendment to a previously delivered offering memorandum, within 10 days of the date of the distribution.

7. For each distribution by the SPE or microfund made in reliance on this Decision, if an offering memorandum (as defined under the Legislation) is provided by the SPE or microfund to investors resident in a jurisdiction of Canada, ALA will ensure that the SPE or microfund provides to investors resident in a jurisdiction of Canada a contractual right of action against the SPE or microfund for rescission or damages that:

    a. Is available to an investor who purchases a security offered by the offering memorandum during the period of distribution, if the offering memorandum contains a misrepresentation, without regard to whether the purchaser relied on the misrepresentation

    b. Is enforceable by the investor delivering notice to the SPE or microfund:

        (i) In the case of an action for rescission, within 180 days after the date of the transaction that gave rise to the cause of action, or

        (ii) In the case of an action for damages, before the earlier of

            (A) 180 days after the investor first had knowledge of the facts giving rise to the cause of action, or

            (B) three years after the date of the transaction that gave rise to the cause of action

    c. Is subject to the defence that the investor had knowledge of the misrepresentation

    d. In the case of an action for damages, provides that the amount recoverable

        (i) Must not exceed the price at which the security was offered, and

        (ii) Does not include all or any part of the damages that the SPE or microfund proves does not represent the depreciation in value of the security resulting from the misrepresentation, and

    e. Is in addition to, and does not detract from, any other right of the purchaser.

8. The first trade in securities distributed in reliance on this Decision will be deemed to be a distribution that is subject to section 2.5 of National Instrument 45-102 Resale of Securities.

9. The Filers ensure that

    a. The accredited investor status of each investor is verified when the investor first signs up to the Platform and verified again when the investor makes any investment through the Platform, and

    b. Upon account opening, the investor acknowledges the risks as described above in paragraphs 72 and 73.

10. The Filers limit access to the Restricted Services to Quality Investors.

11. The Filers will immediately remove an investor from being able to access the Restricted Services if it knows or suspects that the investor is not an accredited investor (as defined in section 73.3(1) of the Act and NI 45-106).

12. The Filers ensure that Canadian investors invest in syndicates or microfunds through the Platform in accordance with paragraph 91.

13. The Approved Incubator Programs are NEXT Canada (previously known as The Next 36), Creative Destruction Lab, York Entrepreneurship Development Institute's (YEDI) Incubator Track, Ontario Centres of Excellence's (OCE) Market Readiness Program, Launch Academy, UTEST and any other Approved Incubator Program from time to time.

14. ALA notifies the Principal Regulator in writing at least 30 days prior to any material change in either Filers' business operations or business model, including any material addition to or material modification to the Restricted Services.

15. The Filers notify the Principal Regulator promptly in writing of any regulatory action, criminal charges, or material civil actions initiated after the date of this Decision in respect of the Filers or any specified affiliate (as defined in Form 33-109F6 Firm Registration) of the Filers.

16. This Decision shall expire on March 27, 2019.

"Grant Vingoe"
Vice Chair
Ontario Securities Commission

"Tim Moseley"
Vice Chair
Ontario Securities Commission

The further decision of the Principal Regulator is that the Prior Registration Decision with respect to the Prior CSA Decision is repealed and the Registrant Obligations Relief Sought is hereby granted, provided that all of the following conditions are met:

1. The Filers comply with the terms and conditions of the Decision with respect to the Prospectus Relief Sought.

2. Unless otherwise exempted by a further decision of the Principal Regulator, ALA complies with all of the terms, conditions, restrictions and requirements applicable to a registered dealer and to a registered individual under Canadian securities laws, including the Act and NI 31-103, and any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on ALA.

3. The Filers will deal fairly, honestly and in good faith with Participants.

4. The Filers, any representatives of the Filers, any Syndicate Lead Investors, any Microfund Lead Investors and any Start-ups do not provide recommendations or advice to any investor or prospective investor on the Platform.

5. The Filers ensure Syndicate Lead Investors of a syndicate invest in the Start-up on the same terms and conditions as the syndicate, and that the Microfund Lead Investors of a microfund invest in or alongside the microfund on the same terms and conditions as investors in the microfund.

6. The Filers ensure that any Start-up that raises capital in Canada through the Platform is not an investment fund and not a reporting issuer.

7. Neither ALA nor any Syndicate Lead Investor nor any Microfund Lead Investor will solicit investors, aside from the Restricted Services of the Platform itself.

8. Neither the Filers nor the SPE nor the microfund holds, handles or controls any investor or Start-up funds.

9. Neither Filers permit any secondary trading of previously issued securities to take place on the Platform.

10. The only compensation that ALA, the Syndicate Lead Investor or the Microfund Lead Investor receive for their role in a syndicate or microfund is (i) Syndicate Carried Interest or Microfund Carried Interest as applicable, and (ii) in the case of certain microfunds, a maximum 1%-3% management fee payable to the Microfund Lead Investor and/or ALA, and such compensation is disclosed to investors. None of the Filers, the Syndicate Lead Investor, the Microfund Lead Investor nor any of their officers or directors receive any other form of commission or transaction-based compensation related to the Restricted Services, including the Syndicate Services or the Microfund Services.

11. ALA will disclose any conflicts of interest as described in paragraph 73(h) to investors in the syndicate or microfund.

12. The Filers will immediately remove a Start-up from the Platform, and the posting of any syndicate in relation to such Start-up, and will prevent any microfund from investing in a Start-up if:

    a. Either Filer makes a good faith determination that the business of the Start-up may not be conducted with integrity because of the past or current conduct of the Start-up or of the Start-up's directors, executive officers or promoters; and

    b. Either Filer becomes aware that the Start-up is not complying with applicable securities legislation.

13. The Filers will not permit Canadian Quality Investors to invest in microfunds that have been formed to invest primarily in: crypto-assets.

14. The Filers will immediately remove any Participant from the Platform or prohibit any person or company from accessing the restricted area of the Platform at the request of the Principal Regulator.

15. In addition to any other reporting required by law, including Form 45-106F1 *Report of Exempt Distribution*, the Filers provide the following information to the Principal Regulator on a quarterly basis:

    a. For syndicates:

    - The name of each Start-up that has raised capital in Canada through a syndicate on the Platform,
    - the name of the associated SPE(s),
    - whether the Start-up is an Eligible Canadian Start-up and the name of the Approved Incubator Program, and
    - the total amount raised by the Start-up via AngelList,

    b. For microfunds:

    - The number of microfunds established in the quarter in Canada and the name of the associated SPE(s),
    - The number of microfunds that deployed cash in Canada in the quarter and the amount invested in Start-ups in total,
    - A list of those microfunds that invested solely in Eligible Canadian Start-ups and the names of the Approved Incubator Programs each Start-up participated in, and
    - The total number of Canadian investors who invested in microfunds in the quarter (pursuant to this decision).

    c. The number of Canadian Accredited Investors that applied during the quarter to be approved as Quality Investors and the number who were approved by ALA as Quality Investors.

16. The Filers will provide such other information as the Principal Regulator may reasonably request from time to time.

17. This Decision shall expire on March 27, 2019.

18. This Decision may be amended by the Principal Regulator from time to time upon prior written notice to the Filer.

"Debra Foubert"
Director
Ontario Securities Commission

2.2 Orders

2.2.1 Wayne Loderick Bennett – ss. 127(1), 127(10)

FILE NO.: 2018-24

IN THE MATTER OF
WAYNE LODERICK BENNETT

Robert P. Hutchison, Commissioner and Chair of the Panel

June 13, 2018

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

WHEREAS the Ontario Securities Commission held a hearing, in writing, to consider a request by Staff of the Commission (**Staff**) for an order imposing sanctions against Wayne Loderick Bennett (**Bennett**) pursuant to subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

ON READING the findings of the Alberta Securities Commission (the **ASC**) dated November 22, 2017 in the matter of Wayne Loderick Bennett (the **ASC Decision**) and on reading the materials filed by Staff, Bennett not having filed any materials, although properly served;

IT IS ORDERED THAT:

1. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in securities or derivatives by Bennett cease permanently, except that this Order does not preclude Bennett from trading in securities or derivatives through a registrant (who has first been given copies of the ASC Decision, the Agreed Statement of Facts and Admissions dated July 21, 2017 (the **Agreed Statement**), and a copy of this Order), in one registered retirement savings plan, one registered retirement income fund, one tax-free savings account (as defined in the *Income Tax Act* (Canada)) and one locked-in retirement account, each for the benefit of one or more of Bennett and his spouse;

2. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Bennett cease permanently, except that this Order does not preclude Bennett from purchasing securities through a registrant (who has first been given copies of the ASC Decision, the Agreed Statement, and a copy of this Order), in one registered retirement savings plan, one registered retirement income fund, one tax-free savings account (as defined in the *Income Tax Act* (Canada)) and one locked-in retirement account, each for the benefit of one or more of Bennett and his spouse;

3. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Bennett permanently;

4. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Bennett resign any positions that 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, Bennett is prohibited permanently from becoming or acting as a director or officer of any issuer, registrant or investment fund manager; and

6. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Bennett is prohibited permanently from becoming or acting as a registrant, investment fund manager or promoter.

“Robert P. Hutchison”

2.2.2 Crystal Wealth Management System Limited et al.

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

Janet Leiper, Commissioner and Chair of the Panel

June 14, 2018

ORDER

ON READING a request from Staff of the Commission that the hearing date scheduled for July 4, 2018 be vacated;

IT IS ORDERED THAT:

1. the hearing date of July 4, 2018 is vacated.

“Janet Leiper”

2.2.3 Pure Industrial Real Estate Trust

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).

June 13, 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
PURE INDUSTRIAL REAL ESTATE TRUST
(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, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Nunavut, and Yukon, 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

2.2.4 US Cobalt Inc.

Headnote

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

Applicable Legislative Provisions

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

June 13, 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
US COBALT INC.
(the Filer)

ORDER

Background

1 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 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, 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 be 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

2.2.5 Amundi Asset Management – ss. 78(1) and 80 of the CFA

Headnote

Subsection 78(1) of the Commodity Futures Act (Ontario) – Order to revoke previous relief from paragraph 22(1)(b) of the CFA granted to foreign adviser in respect of commodity futures contracts or commodity futures options for certain Ontario "permitted clients" as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, subject to certain terms and conditions.

Section 80 of the Commodity Futures Act (Ontario) – Foreign adviser exempted from the adviser registration requirement in paragraph 22(1)(b) of the CFA where such adviser acts as an adviser in respect of commodity futures contracts or commodity futures options (Contracts) for certain investors in Ontario who meet the definition of "permitted client" in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Contracts are primarily traded on commodity futures exchanges outside of Canada and primarily cleared outside of Canada.

Terms and conditions of exemption correspond to the relevant terms and conditions of the comparable exemption from the adviser registration requirement available to international advisers in respect of securities set out in section 8.26 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Exemption also subject to a "sunset clause" condition.

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 1(1), 22(1)(b), 78(1), 80.
Securities Act, R.S.O. 1990, c. S.5, as am., s. 25(3).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 1.1, 8.26.
Ontario Securities Commission Rule 13-502 Fees.

Applicable Order

In the Matter of Amundi S.A., dated July 12, 2013, (2013), 36 OSCB 7204.

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

AND

IN THE MATTER OF
AMUNDI ASSET MANAGEMENT

ORDER
(Subsection 78(1) and section 80 of the CFA)

UPON the application (the **Application**) of Amundi Asset Management (formerly Amundi S.A.) (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for:

(a) an order, pursuant to subsection 78(1) of the CFA, revoking the exemption order granted by the Commission to the Applicant on July 12, 2013 (the **Previous Order**); and

(b) an order, pursuant to section 80 of the CFA, that the Applicant and any individuals engaging in, or holding themselves out as engaging in, the business of advising others as to trading in Contracts (as defined below) on the Applicant's behalf (the **Representatives**) be exempt, for a specified period of time, from the adviser registration requirement in paragraph 22(1)(b) of the CFA, subject to certain terms and conditions;

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

AND WHEREAS for the purposes of this Order:

"CFA Adviser Registration Requirement" means the provisions of section 22 of the CFA that prohibit a person or company from acting as an adviser with respect to trading in Contracts unless the person or company is registered in the appropriate category of registration under the CFA;

"Contract" has the meaning ascribed to that term in subsection 1(1) of the CFA;

"Foreign Contract" means a Contract that is primarily traded on one or more organized exchanges that are located outside of Canada and primarily cleared through one or more clearing corporations that are located outside of Canada;

"International Adviser Exemption" means the exemption set out in section 8.26 of NI 31-103 from the OSA Adviser Registration Requirement;

"NI 31-103" means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, as amended from time to time;

"OSA" means the *Securities Act*, R.S.O. 1990, c. S.5, as amended from time to time;

"OSA Adviser Registration Requirement" means the provisions of section 25 of the OSA that prohibit a person or company from acting as an adviser with respect to investing in, buying or selling securities unless the person or company is registered in the appropriate category of registration under the OSA;

"Permitted Client" means a client in Ontario that is a "permitted client", as that term is defined in section 1.1 of NI 31-103, except that for purposes of this Order such definition shall exclude a person or company registered under the securities or commodities legislation of a jurisdiction of Canada as an adviser or dealer; and

"specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 Registration Information;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a joint stock company formed under the laws of France. The head office of the Applicant is in Paris, France.

2. The Applicant engages in the business of an adviser with respect to securities and with respect to Contracts mainly in France. The Applicant provides investment management services to its clients on a fully discretionary basis, through funds and separately managed accounts across multiple strategies and financial instruments, including Foreign Contracts.

3. The Applicant is registered to provide portfolio management services as an asset management company (société de gestion de portefeuille) with the Autorité des Marchés Financiers in France (the "**AMF**") and is authorized to advise on investments including commodity futures contracts and options on commodity futures contracts.

4. The Applicant has "passported" its AMF registration to the United Kingdom, and accordingly is authorized to provide services in the United Kingdom through its London branch.

5. The Applicant engages notably in the business of commodity trading advising in France and the United Kingdom. The Applicant provides advice on Contracts to Permitted Clients in Canada mainly through its London branch pursuant to this "passported" registration and the Previous Order.

6. The Applicant is not registered in any capacity under the CFA or the OSA. The Applicant has availed itself of the International Adviser Exemption in Ontario.

7. The Applicant currently relies on the Previous Order that is set to expire on July 12, 2018. The Applicant has complied with, and is currently in compliance with, all the terms and conditions of the Previous Order.

8. The Applicant is not in default of securities legislation, commodity futures legislation or derivatives legislation of any jurisdiction in Canada. The Applicant is in compliance in all material respects with the securities laws, commodity futures laws and derivatives laws of France.

9. In Ontario, certain institutional investors that are Permitted Clients have engaged the Applicant as a discretionary investment manager for purposes of implementing certain specialized investment strategies.

10. The Applicant acts as a discretionary commodity futures advisory manager for Canadian institutional investors that are Permitted Clients. The Applicant's advisory services to Permitted Clients primarily include the use of specialized investment strategies employing Foreign Contracts.

11. Were the proposed advisory services limited to securities (as defined in subsection 1(1) of the OSA), the Applicant would be able to rely on the International Adviser Exemption and carry out such activities for Permitted Clients on a basis that would be exempt from the OSA Adviser Registration Requirement.

12. There is currently no exemption from the CFA Adviser Registration Requirement that is equivalent to the International Adviser Exemption. Consequently, in order to advise Permitted Clients as to trading in Foreign Contracts, in the absence of this Order, the Applicant would be required to satisfy the CFA Adviser Registration Requirement by applying for and obtaining registration in Ontario as an adviser under the CFA in the category of commodity trading manager.

13. To the best of the Applicant's knowledge, the Applicant confirms that there are currently no regulatory actions of the type contemplated by the *Notice of Regulatory Action* attached as Appendix "B", other than those previously filed with the Commission.

14. The anticipated expiry of the five-year period set out in the sunset clause of the Previous Order has triggered the requested relief.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to make this Order;

IT IS ORDERED, pursuant to subsection 78(1) of the CFA, that the Previous Order is revoked;

AND IT IS ORDERED, pursuant to section 80 of the CFA, that the Applicant and the Representatives are exempt from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of providing advice to Permitted Clients as to the trading of Foreign Contracts provided that:

(a) the Applicant provides advice to Permitted Clients only as to trading in Foreign Contracts and does not advise any Permitted Client as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;

(b) the Applicant's head office or principal place of business remains in France;

(c) the Applicant is registered in a category of registration, or operates under an exemption from registration, under the applicable securities or commodity futures legislation of France that permits it to carry on the activities in France that registration under the CFA as an adviser in the category of commodity trading manager would permit it to carry on in Ontario;

(d) the Applicant continues to engage in the business of an adviser (as defined in the CFA) in France and in the United Kingdom through its London branch;

(e) as at the end of the Applicant's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships (excluding the gross revenue of an affiliate or affiliated partnership of the Applicant if the affiliate or affiliated partnership is registered under securities legislation, commodity futures legislation or derivatives legislation of a jurisdiction of Canada) was derived from the portfolio management activities of the Applicant, its affiliates and its affiliated partnerships in Canada (which, for greater certainty, includes both securities-related and commodity-futures-related activities);

(f) before advising a Permitted Client with respect to Foreign Contracts, the Applicant notifies the Permitted Client of all of the following:

(i) the Applicant is not registered in Ontario to provide the advice described in paragraph (a) of this Order;

(ii) the foreign jurisdiction in which the Applicant's head office or principal place of business is located;

(iii) all or substantially all of the Applicant's assets may be situated outside of Canada;

(iv) there may be difficulty enforcing legal rights against the Applicant because of the above; and

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

(g) the Applicant has submitted to the Commission a completed Submission to Jurisdiction and Appointment of Agent for Service in the form attached as Appendix "A";

(h) the Applicant notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Applicant or, to the best of the Applicant's knowledge and after reasonable inquiry, any predecessors or the specified affiliates of the Applicant by completing and filing Appendix "B" within 10 days of the commencement of each such action; and

(i) if the Applicant is not subject to the requirement to pay a participation fee in Ontario because it is not registered under the OSA and does not rely on the International Adviser Exemption, by December 31st of each year, the Applicant pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of Ontario Securities Commission Rule 13-502 Fees as if the Applicant relied on the International Adviser Exemption; and

IT IS FURTHER ORDERED that this Order will terminate on the earliest of:

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

(b) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the ability of the Applicant to act as an adviser to a Permitted Client; and

(c) five years after the date of this Order.

DATED at Toronto, Ontario, this 13th day of June, 2018.

"Janet Leiper"
Commissioner
Ontario Securities Commission

"Anne Marie Ryan"
Commissioner
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

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

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

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

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

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

   Name:
   E-mail address:
   Phone:
   Fax:

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

   ☐ Section 8.18 [*international dealer*]

   ☐ Section 8.26 [*international adviser*]

   ☐ Other [specify]:

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

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

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

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

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

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

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

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

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

Dated: _____

_____
(Signature of the International Firm or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

Acceptance

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

Dated: _____

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

_____
(Name of signatory)

_____
(Title of signatory)

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

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

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Settlement Agreements

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

Yes _____ No _____

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

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

2. Disciplinary History

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

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

If yes, provide the following information for each action:

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

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

3. Ongoing Investigations

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

Yes _____ No _____

If yes, provide the following information for each investigation:

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

Authorized Signing Officer or Partner

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

Witness

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

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

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

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

2.2.6 Benedict Cheng et al.

IN THE MATTER OF
BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN AND
ERIC TREMBLAY

Philip Anisman, Commissioner and Chair of the Panel
Deborah Leckman, Commissioner
Robert P. Hutchison, Commissioner

June 18, 2018

ORDER

WHEREAS on June 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;

ON HEARING the submissions of the representatives for Staff of the Commission (Staff) and the representatives for Frank Soave and Eric Tremblay (the Respondents), all parties consenting;

IT IS ORDERED that:

1. the hearing date of September 20, 2018 is vacated;

2. additional disclosure by Staff, if any, shall be served by July 3, 2018;

3. additional expert reports, if any, shall be served by July 13, 2018; and

4. updated hearing briefs, if any, shall be served by July 31, 2018.

“Philip Anisman”

“Deborah Leckman”

“Robert P. Hutchison”

2.3 Orders with Related Settlement Agreements

2.3.1 Peter Volk – ss. 127(1) and 127.1

FILE NO.: 2018-27

IN THE MATTER OF
PETER VOLK

Mark J. Sandler, Commissioner and Chair of the Panel
AnneMarie Ryan, Commissioner
M. Cecilia Williams, Commissioner

June 13, 2018

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

WHEREAS on June 13, 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 approval of a settlement agreement dated June 8, 2018 (the **Settlement Agreement**) between Peter Volk (the **Respondent**) and Staff of the Commission (**Staff**);

ON READING the Statement of Allegations dated June 8, 2018, the Settlement Agreement and on hearing the submissions of the representatives for Staff and the Respondent;

AND WHEREAS pursuant to the Settlement Agreement, the Respondent has given an undertaking to the Commission dated June 5, 2018, in the form attached to the Settlement Agreement;

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 Act; and

3. The Respondent pay costs in the amount of $10,000, pursuant to section 127.1 of the Act.

“Mark J. Sandler”

“AnneMarie Ryan”

“M. Cecilia Williams”

IN THE MATTER OF PETER VOLK

SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION AND
PETER VOLK

PART I – INTRODUCTION

1. This matter concerns the trading in Pacific Rubiales Energy Corporation (currently named Frontera Energy Corporation and prior to that named Pacific Exploration and Production Corporation ("Pacific")) debentures by Pacific's general counsel, Peter Volk ("Volk" or the "Respondent"), at a time when Pacific was involved in a due diligence process regarding its potential acquisition with two potential purchasers. As Pacific's general counsel, the Respondent was in a position of high responsibility and trust and was subject to a high professional standard to avoid any appearance of conflicts of interest and any appearance of misuse of confidential information related to Pacific.

2. The parties shall 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 to consider whether, pursuant to sections 127 and 127.1 of the Securities Act, RSO 1990, c S.5 (the "Act"), it is in the public interest for the Commission to make certain orders against Volk in respect of the conduct described herein.

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. THE RESPONDENT

5. Volk was the general counsel to Pacific and its predecessors and successors from 2004 to March 2018. Pacific is a Canadian oil and gas company with offices in Toronto, Calgary, Peru and Colombia. Pacific's common shares trade on the TSX. Volk has significant experience in capital markets transactions and has an unblemished regulatory reputation.

B. BACKGROUND

Interest in acquiring Pacific (October 2014 – July 2015 (the "Material Time"))

6. On October 17, 2014, Pacific received a confidential, non-binding letter from ALFA S.A.B. de C.V. ("ALFA"), a Mexican conglomerate. ALFA proposed a potential acquisition of all outstanding Pacific common shares at a price of $20.00. Despite ALFA's interest, the period by which ALFA and Pacific were to execute a confidentiality agreement with respect to a potential transaction expired on October 31, 2014, in large part because Pacific's stock price had declined significantly, a decline that continued throughout the Material Time. As a result, ALFA did not commence any due diligence review of Pacific with regard to a potential transaction at this time.

7. On December 28, 2014, Harbour Energy Ltd. ("Harbour") delivered a due diligence request to Pacific in regard to the potential acquisition of Pacific. Harbour is an investment vehicle specializing in private investments in energy and energy-related infrastructure. No binding offer was made. No price or transaction structure was proposed by Harbour for acquiring all outstanding Pacific shares, but the parties entered into a confidentiality agreement to allow Harbour to commence due diligence investigations in order to determine whether it wished to make a binding offer.

8. Although ALFA's original October 2014 proposal to acquire Pacific did not result in a confidentiality agreement being entered into, a few months later, in February 2015, ALFA and Pacific entered into a confidentiality agreement, which allowed ALFA to have access to non-public Pacific information for the purposes of conducting a due-diligence review for the potential acquisition of Pacific by ALFA.

9. Pacific's management participated in separate discussions regarding due diligence with ALFA and Harbour throughout the first few months of 2015.

10. In March 2015, ALFA and Harbour each advised Pacific that they were unwilling to propose a transaction with Pacific without a partner. Pacific then proceeded to introduce Harbour and ALFA and they discussed a possible joint offer. This led to ALFA and Harbour delivering a non-binding expression of interest to acquire Pacific on April 26, 2015. However, despite negotiations between all three parties that eventually led to a May 20, 2015 agreement for ALFA and Harbour to acquire Pacific for $6.50 per common share, ultimately the bid was withdrawn in July 2015 and no acquisition of Pacific occurred.

Pacific's Insider Trading Policy

11. As per Pacific's insider trading policy (the "IT Policy") during the Material Time, all employees including Volk were required to sign documentation acknowledging that they were aware of the IT Policy and that they agreed to follow it. The IT Policy covered among other things, prohibitions on insider trading and tipping, insider reporting obligations, and trading during blackout periods. Under the IT Policy, blackout periods were imposed in relation to Pacific's financial disclosures, and in relation to the knowledge of material, generally-undisclosed information held by Pacific employees. The imposition of blackout periods, where not prescribed by the IT Policy, was at Volk's discretion.

12. The IT Policy directed that all Pacific insiders must give Volk (or alternatively, Pacific's Deputy General Counsel at the time) advance notification of any trading in Pacific securities so that Volk could confirm that the trade would be made at a time when there was no knowledge of material non-public information and/or any blackout period in place to prohibit the trade.

13. On February 13, 2015 (the "Purchase Date") Volk purchased USD $100,000 par value Pacific senior unsecured notes (the "Notes") for a total of $75,349.31. In making the purchase of the Notes Volk self-assessed (pursuant to the IT Policy) that he had no knowledge of any material, generally-undisclosed information.

14. On the Purchase Date, Volk had knowledge of a non-binding expression of interest received from Harbour on January 8, 2015 (which expression lacked material terms, such as a price), the ongoing Harbour due diligence process, and meetings between Harbour and Pacific related to the due diligence (the "Harbour Facts"). With respect to ALFA, Volk knew about a February 4, 2015 confidentiality agreement and ALFA having been granted access to confidential Pacific information to conduct due diligence with respect to a potential transaction, although ALFA had not yet commenced its due diligence investigations (the "ALFA Facts").

Pacific blackout periods imposed due to the existence of material, generally-undisclosed information during the Material Time

15. At the Purchase Date Volk had knowledge of the Harbour Facts and the ALFA Facts. No blackout period was in place on the Purchase Date. Volk subsequently imposed a blackout in March 2015, at which point Pacific was actively working to combine the two parties, who had made it clear that neither was interested in proceeding alone.

16. Volk had previously imposed a blackout on October 21, 2014, in relation to the preparation and filing of quarterly financial information. This blackout was lifted on November 7, 2014 upon filing of that information. No blackout was imposed specifically relating to ALFA's initial expression of interest. Volk imposed a separate blackout between December 2, 2014 and December 9, 2014 related to the entering into of a joint venture with ALFA on Mexican opportunities, unrelated to any interest ALFA may have had in acquiring Pacific. Volk imposed another blackout in March 2015. The March 2015 blackout was in response to the joint expression of interest by ALFA and Harbour to acquire Pacific. The March 2015 blackout was in effect from on or around March 9, 2015 to on or around May 15, 2015.

PART IV – CONDUCT CONTRARY TO THE PUBLIC INTEREST

17. The Respondent acknowledges and admits that:

    (a) as Pacific's general counsel and the person who supervised Pacific's Insider Trading Policy (which allowed him to self-assess whether he was in possession of material, generally-undisclosed information when contemplating a trade in Pacific securities), he was in a position of high responsibility and trust and was subject to a high professional standard to avoid any appearance of conflicts of interest and any appearance of misuse of confidential information related to Pacific;

    (b) the prudent course of action as Pacific's general counsel would have been to err on the side of caution given his knowledge of the Harbour Facts and ALFA Facts and refrain from purchasing Pacific securities at the time he did; and

(c) the Respondent's conduct was contrary to the public interest as he failed to adhere to the high standard of conduct expected of him in the circumstances.

PART V – RESPONDENT'S POSITION

18. The Respondent intends to request that the panel at the Settlement Hearing (as defined below) consider the following mitigating circumstances:

(a) The Respondent made a good faith and reasonable decision not to impose a blackout based on his assessment of materiality at the time;

(b) The respondent held a good faith belief that he did not have material undisclosed information at the Purchase Date;

(c) The Respondent has cooperated with Staff;

(d) The Respondent earned no profit from his trading in the Notes and in fact lost almost the entire value of them due to Pacific entering CCAA proceedings;

(e) Volk had previously bought the initial issuance of many of Pacific's notes as an investment to earn the "coupon", or interest rate, associated with the notes. He bought the Notes because the reduced price would allow him to earn a premium over the stated interest rate over the life of the Notes.

(f) Volk did not maintain a blackout that had been imposed for unrelated reasons (quarterly financial filings) after ALFA failed to sign a confidentiality agreement in November 2014 as there was demonstrably no interest from ALFA in acquiring Pacific. Although Harbour expressed an interest in late December 2014, that interest was highly conditioned on, among other material matters, completion of due diligence, determination of a price and structure, and the delivery of a binding offer. None of these matters was resolved until April 2015. However, by March 2015, after the Trade had occurred, a material event had occurred – the expression of interest by both ALFA and Harbour to acquire the Company only if a partner could be found, and the Company's attempts to combine the two parties – which caused Volk to conclude that a blackout should be imposed.

(g) Volk, as General Counsel, was not only responsible for self-assessing his own trades, but also the trades of all insiders. Throughout the period between the end of the blackout in November 2014 and the imposition of the blackout in March 2015, a number of trades were proposed and executed by insiders after assessment by Volk; in all cases, he was of the opinion that no material, undisclosed information existed at the time of the trades, an assessment that he applied to the Trade as well.

PART VI – TERMS OF SETTLEMENT

19. The Respondent agrees to the terms of settlement set forth below.

20. The Respondent has given an undertaking (the "Undertaking") to the Commission in the form attached as Schedule "B" to this Settlement Agreement, which includes an undertaking by the Respondent to:

(a) make a voluntary payment, at the time of the Settlement Hearing, in the amount of $30,000 to be designated for allocation or use by the Commission in accordance with paragraph (i) or (ii) of subsection 3.4(2)(b) of the Act;

(b) obtain external legal advice in regard to any and all future trades by the Respondent in securities of issuers of which the Respondent is an insider, in circumstances where the Respondent is required to self-assess at the time of the trade whether he is in possession of material, generally undisclosed information related to the issuer, for a period of two years from the date of the Commission's order approving this Settlement Agreement; and

(c) successfully complete either the Directors Education Program of the Institute of Corporate Directors, or the Partners, Directors and Senior Officers Course of the Canadian Securities Institute within 2 years commencing on the date of the Commission's order approving this Settlement Agreement and report his completion thereof to Staff.

21. The Respondent consents to the Order, pursuant to which it is ordered that:

    (a) this Settlement Agreement be approved;

    (b) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act; and

    (c) the Respondent pay costs in the amount of $10,000, pursuant to section 127.1 of the Act.

22. The Respondent agrees that the amounts set out in paragraph 20 and sub-paragraph 21(c) shall be paid by the Respondent by separate bank drafts at the hearing before the Commission to approve this Settlement Agreement, if this Settlement Agreement is approved.

PART VII – FURTHER PROCEEDINGS

23. 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 conduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any term in this Settlement Agreement or the Undertaking, 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 or the Undertaking.

24. The Respondent acknowledges that, if the Commission approves this Settlement Agreement and the Respondent fails to comply with any term in it or the Undertaking, the Commission is entitled to bring any proceedings necessary.

25. The Respondent waives any defences to a proceeding referenced in paragraph 15 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 or the Undertaking.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

26. The parties will seek approval of this Settlement Agreement at a public hearing (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.

27. The Respondent will attend the Settlement Hearing in person.

28. 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.

29. 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) 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.

30. 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 IX – DISCLOSURE OF SETTLEMENT AGREEMENT

31. 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.

32. 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 X – EXECUTION OF SETTLEMENT AGREEMENT

33. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

34. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Toronto, Ontario this 4th day of June, 2018.

"Lauren Culp"
Witness (print name):

"Peter Volk"
Peter Volk

DATED at Toronto, Ontario this 8th day of June, 2018.

STAFF OF THE ONTARIO SECURITIES COMMISSION

By: *"Jeff Kehoe"*
Jeff Kehoe
Director, Enforcement Branch

SCHEDULE "A"

FILE NO.: _____

IN THE MATTER OF
PETER VOLK

(*Names of panelists comprising the panel*)

(*Day and date order made*)

ORDER
(Section 127 of the
Securities Act, RSO 1990, c S.5)

WHEREAS on ___, 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 ____, 2018 (the **Settlement Agreement**) between Peter Volk (the **Respondent**) and Staff of the Commission (**Staff**);

AND WHEREAS pursuant to the Settlement Agreement, the Respondent has given an undertaking (the **Undertaking**) to the Commission dated [**date**], in the form attached as Schedule "A" to this Order, which includes an undertaking to:

1. make a payment of $30,000 to be designated for allocation or use by the Commission in accordance with paragraph (i) or (ii) of subsection 3.4(2)(b) of the *Securities Act*, RSO 1990, c S.5 (the **Act**),

2. obtain external legal advice in regard to any and all future trades the Respondent makes in securities of issuers of which the Respondent is an insider, in circumstances where the Respondent is required to self-assess at the time of the trade whether the Respondent is in possession of material non-public information related to the issuer, for a period of two years from the date of the Commission's order approving the Settlement Agreement; and

3. successfully complete either the Directors Education Program of the Institute of Corporate Directors, or the Partners, Directors and Senior Officers Course of the Canadian Securities Institute within 2 years commencing on the date of the Commission's order approving this Settlement Agreement and report his completion thereof to the Commission.

ON READING the Statement of Allegations dated [**date**], the Settlement Agreement, and the Undertaking, and on hearing the submissions of the representatives of Staff and the Respondent;

IT IS ORDERED THAT:

(a) the Settlement Agreement is approved;

(b) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act; and

(c) the Respondent pay costs in the amount of $10,000, pursuant to section 127.1 of the Act.

_____
[Commissioner]

_____
[Commissioner]

_____
[Commissioner]

IN THE MATTER OF
PETER VOLK

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated [**date**] (the "Settlement Agreement") between Peter Volk (the "Respondent") and Staff of the Commission ("Staff"). All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.

2. The Respondent undertakes to the Commission to:

   a. make a payment of $30,000 to be designated for allocation or use by the Commission in accordance with paragraph (i) or (ii) of subsection 3.4(2)(b) of the Act;

   b. obtain external legal advice in regard to any and all future trades he makes in securities of issuers of which he is an insider, in circumstances where he is required to self-assess at the time of the trade whether he is in possession of material, generally undisclosed information related to the issuer, for a period of two years from the date of the Commission's order approving the Settlement Agreement; and

   c. successfully complete either the Directors Education Program of the Institute of Corporate Directors, or the Partners, Directors and Senior Officers Course of the Canadian Securities Institute within 2 years commencing on the date of the Commission's order approving this Settlement Agreement and report his completion thereof to the Commission.

DATED at Toronto, Ontario this 5th day of June, 2018.

"Lauren Culp"
Witness (print name):

"Peter Volk"
Peter Volk

2.3.2 Royal Mutual Funds Inc. – ss. 127(1), 127.1

FILE NO.: 2018-31

IN THE MATTER OF
ROYAL MUTUAL FUNDS INC.

Janet Leiper, Commissioner and Chair of the Panel
William J. Furlong, Commissioner

June 13, 2018

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

WHEREAS on June 13, 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 approval of a settlement agreement dated June 8, 2018, (the **Settlement Agreement**) between Royal Mutual Funds Inc. (**RMFI**) and Staff of the Commission (**Staff**);

ON READING the Joint Application Record for a Settlement Hearing, including the Statement of Allegations dated June 8, 2018, the Settlement Agreement and 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;

2. RMFI is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Securities Act, RSO 1990, c S.5 (the Act); and

3. RMFI shall:

   (i) pay an administrative penalty in the amount of $1,100,000, 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

   (ii) pay costs of the Commission's investigation in the amount of $20,000, pursuant to section 127.1 of the Act.

"Janet Leiper"

"William J. Furlong"

FILE NO.: 2018-31

IN THE MATTER OF
ROYAL MUTUAL FUNDS INC.

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION AND
ROYAL MUTUAL FUNDS INC.

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 Royal Mutual Funds Inc. ("**RMFI**").

2. A principal distributor of a mutual fund that is also a participating dealer of another fund is prohibited from providing incentives to any of its representatives to recommend a mutual fund of which it is a principal distributor over a mutual fund of which it is a participating dealer, except in certain permitted circumstances, pursuant to section 4.2 of National Instrument 81-105 *Mutual Fund Sales Practices* ("**NI 81-105**"). The Companion Policy to NI 81-105 states that NI 81-105 was adopted in order to discourage compensation arrangements that could be perceived as inducing dealers and their representatives to sell mutual fund securities on the basis of incentives they were receiving rather than on the basis of what was suitable for and in the best interests of their clients. The purpose of NI 81-105 is to provide a minimum standard of conduct to ensure that investor interests remain uppermost in the actions of mutual fund industry participants when they are distributing mutual fund securities and that conflicts of interest arising from compensation arrangements are minimized.

3. RMFI is a member of the Mutual Fund Dealers Association of Canada ("**MFDA**") and is registered with the Commission as a mutual fund dealer. RMFI is wholly owned by the Royal Bank of Canada ("**RBC**"). RMFI is the principal distributor of RBC mutual funds, which include the RBC Portfolio Solutions suite of mutual funds (the "**RBC PS Funds**"), as well as other proprietary funds (the "**RBC Funds**"). The RBC PS Funds invest in other mutual funds. RMFI is also a participating dealer of non-proprietary mutual funds (the "**Third Party Funds**"). The Third Party Funds account for a small proportion of RMFI's gross sales.

4. As summarized below, between November 2011 and October 2016, RMFI contravened NI 81-105 by providing to certain of its representatives a higher rate of commission for the sale of units of RBC PS Funds than for the sale of units of Third Party Funds. In addition, RMFI failed to establish, maintain and apply policies and procedures to establish a system of controls and supervision to ensure that it and each individual acting on its behalf complied with subsection 4.2(1) of NI 81-105 during this period.

PART II – JOINT SETTLEMENT RECOMMENDATION

5. Staff of the Commission ("**Staff**") agree to recommend settlement of the proceeding commenced by the Notice of Hearing (the "**Proceeding**") against RMFI according to the terms and conditions set out in Part VI of this Settlement Agreement (the "**Settlement Agreement**"). RMFI agrees to the making of an order in the form attached as Schedule "A" (the "**Order**"), based on the facts set out below.

6. For the purposes of this Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, RMFI 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. The Legislative Framework

7. Subsection 4.2(1) of NI 81-105 states that a principal distributor of a mutual fund that is also a participating dealer of another mutual fund shall not provide an incentive for any of its representatives to recommend a mutual fund of which it is a principal distributor over a mutual fund of which it is a participating dealer.

8. Pursuant to section 1.1 of NI 81-105 and section 1.1 of National Instrument 81-102 *Investment Funds*, for the purpose of subsection 4.2(1) of NI 81-105:

   (a) a "principal distributor" includes a company through whom securities of a mutual fund are distributed under an arrangement with the mutual fund or its manager that provides (a) an exclusive right to distribute the securities of the mutual fund in a particular area, or (b) a feature that gives or is intended to give the company a material competitive advantage over others in the distribution of the securities of the mutual fund; and

   (b) a "participating dealer" means a dealer other than the principal distributor that distributes securities of a mutual fund.

9. Although subsection 4.2(2) of NI 81-105 provides an exception to the prohibition contained in subsection 4.2(1), that exception does not apply to the facts of this matter.

B. Enhanced Compensation Paid by RMFI

10. RMFI distributes mutual funds through representatives. According to RMFI, during the Material Period (defined below) approximately 11% of RMFI's representatives were "Investment & Retirement Planning" financial planners ("**IRPs**"). IRPs are "representatives" of RMFI within the meaning of subsection 4.2(1) of NI 81-105.

11. The investments sold by IRPs include RBC PS Funds, RBC Funds and Third Party Funds.

12. For a period of five years, from November 1, 2011 to October 27, 2016 (the "**Material Period**"), RMFI offered and paid to IRPs ten basis points more in commissions for the sale of units of RBC PS Funds than for the sale of units of RBC Funds and Third Party Funds (the "**Enhanced Compensation**").

13. According to RMFI, the Enhanced Compensation was intended to encourage IRPs to recommend the RBC PS Funds when consistent with clients' investment goals.

14. The Enhanced Compensation resulted in additional payments from RMFI to IRPs of (i) $24,517,931 in the aggregate for the Material Period, and (ii) on average, between $4,848.22 and $6,282.71 per IRP per year of the Material Period. As set out below, the Enhanced Compensation did not have any bearing on the fees charged to clients.

C. Circumstances Leading to RMFI's Reporting of the Enhanced Compensation to the Commission

15. In mid-2016, as part of a project known as the Targeted Review of Member Compensation and Incentive Programs, conducted by the MFDA in collaboration with the Commission, MFDA staff identified the Enhanced Compensation issue. Accordingly, in September 2016, RMFI contacted Staff to report the Enhanced Compensation issue. MFDA staff and Staff jointly investigated this matter.

D. Removal of the Enhanced Compensation by RMFI

16. Effective October 28, 2016, RMFI eliminated the Enhanced Compensation by equalizing the compensation offered and paid to IRPs for the sale of units of RBC PS Funds as compared to the sale of units of RBC Funds and Third Party Funds.

PART IV – MITIGATING FACTORS

17. The Enhanced Compensation structure had no bearing on the fees charged to clients for any of the RBC PS Funds, RBC Funds, or Third Party Funds.

18. Staff do not allege any harm to clients as a result of investments in the RBC PS Funds made during the Material Period.

19. According to RMFI, the Enhanced Compensation was intended to encourage the IRPs to recommend the RBC PS Funds in relation to both the conventional RBC Funds and Third Party Funds, rather than to specifically discourage investment in Third Party Funds, which account for a small proportion of RMFI's gross sales. RMFI considers the RBC PS Funds to be a suite of products with distinctive benefits for clients, including diversification and active portfolio management.

20. RMFI cooperated with MFDA staff and Staff during their investigation.

21. RMFI reported the issue of the Enhanced Compensation to the Commission following inquiries made by MFDA staff into RMFI's compensation practices.

22. Effective October 28, 2016, RMFI eliminated the Enhanced Compensation to its IRPs.

23. Following the identification of the Enhanced Compensation issue, RMFI has engaged in an extensive review and testing of its systems of control and supervision, and developed enhanced procedures, controls and procedures designed to prevent the reoccurrence of a breach of subsection 4.2(1) of NI 81-105. RMFI has advised Staff that there are no other instances of enhanced compensation to its representatives in breach of subsection 4.2(1) of NI 81-105.

PART V – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

24. By engaging in the conduct described above, RMFI admits and acknowledges that it has breached Ontario securities law, and that it has acted contrary to the public interest.

25. In particular, during the Material Period, RMFI breached: (i) subsection 4.2(1) of NI 81-105 by providing an incentive for certain of its representatives to recommend certain of the mutual funds of which RMFI was the principal distributor over other mutual funds of which RMFI was a participating dealer, and (ii) section 11.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* by failing to establish, maintain and apply policies and procedures that establish a system of controls and supervision sufficient to provide reasonable assurance that RMFI and each individual acting on its behalf complies with subsection 4.2(1) of NI 81-105.

PART VI – TERMS OF SETTLEMENT

26. RMFI agrees to the terms of settlement listed below and consents to the Order in substantially the form attached hereto as Schedule "A", which provides that:

    (a) the Settlement Agreement is approved;

    (b) RMFI is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

    (c) RMFI shall:

        (i) pay an administrative penalty in the amount of $1,100,000 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

        (ii) pay costs of the Commission's investigation in the amount of $20,000, by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to section 127.1 of the Act.

27. RMFI agrees to attend in person at the hearing before the Commission to consider the proposed settlement.

PART VII – FURTHER PROCEEDINGS

28. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law against RMFI in relation to the facts set out in Part III of this Settlement Agreement, subject to paragraph 29 below.

29. If the Commission approves this Settlement Agreement and RMFI fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against RMFI. 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

30. The parties will seek approval of this Settlement Agreement at a public hearing (the "**Settlement Hearing**") before the Commission scheduled for June 13, 2018 or on another date agreed to by Staff and RMFI, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.

31. Staff and RMFI agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the Settlement Hearing on RMFI's conduct, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

32. If the Commission approves this Settlement Agreement:

    (a) RMFI 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.

33. Whether or not the Commission approves this Settlement Agreement, RMFI 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

34. 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 RMFI before the Settlement Hearing takes place will be without prejudice to Staff and RMFI; and

    (b) Staff and RMFI 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.

35. 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 RMFI otherwise agree in writing or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

36. This Settlement Agreement may be signed in one or more counterparts which, together, constitute a binding agreement.

37. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Toronto this 8th day of June, 2018.

ROYAL MUTUAL FUNDS INC.

By: *"Michael Walker"*
Michael Walker, President

COMMISSION STAFF

By: *"Jeff Kehoe"*
Jeff Kehoe
Director, Enforcement Branch

SCHEDULE "A" – DRAFT ORDER

FILE NO.: 2018-31

IN THE MATTER OF
ROYAL MUTUAL FUNDS INC.

ORDER
(Subsections 127(1) and 127.1)

WHEREAS on June 13, 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 respect of the Royal Mutual Finds Inc. ("**RMFI**") and Staff of the Commission for approval of a settlement agreement dated June 8, 2018 (the "**Settlement Agreement**");

ON READING the Joint Application Record for a Settlement Hearing, including the Statement of Allegations dated June 8, 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 (the "**Act**");

2. RMFI is reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act; and

3. RMFI shall:

    i. pay an administrative penalty in the amount of $1,100,000, 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

    ii. pay costs of the Commission's investigation in the amount of $20,000, pursuant to section 127.1 of the Act.

2.3.3 Clayton Smith – ss. 127(1), 127.1(1)

FILE NO.: 2018-35

IN THE MATTER OF CLAYTON SMITH

Janet Leiper, Commissioner and Chair of the Panel
Philip Anisman, Commissioner
Frances Kordyback, Commissioner

June 14, 2018

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

WHEREAS on June 13, 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 an application made jointly by Clayton Smith (the **Respondent**) and staff of the Commission (Staff) for approval of a settlement agreement dated as of May 28, 2018 (the **Settlement Agreement**);

ON READING the Joint Application for a Settlement Hearing dated June 8, 2018, including the Statement of Allegations, the Settlement Agreement and the Consent of the parties, and on hearing the submissions of the Respondent, appearing in person, and of the representative for Staff;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;

2. the registrations granted to the Respondent under Ontario securities law are terminated;

3. trading in any securities or derivatives by the Respondent cease permanently;

4. the acquisition of any securities by the Respondent is prohibited permanently;

5. any exemptions contained in Ontario securities law not apply to the Respondent permanently;

6. the Respondent is reprimanded;

7. the Respondent immediately resign any position that he holds as a director or officer of an issuer or a registrant, including an investment fund manager;

8. the Respondent is permanently prohibited from becoming or acting as a director or officer of any issuer or registrant, including an investment fund manager;

9. the Respondent is permanently prohibited from becoming or acting as a registrant, including an investment fund manager, or a promoter;

10. the Respondent pay an administrative penalty in the amount of $250,000, which amount is designated for allocation or use by the Commission in accordance with paragraph 3.4(2)(b) of the *Securities Act*, RSO 1990, c S.5; and

11. the Respondent pay costs in the amount of $50,000.

“Janet Leiper”

“Philip Anisman”

“Frances Kordyback”

IN THE MATTER OF
CLAYTON SMITH

SETTLEMENT AGREEMENT

PART I – REGULATORY MESSAGE AND INTRODUCTION

1. For there to be fairness and confidence in Ontario's capital markets, it is critical that investment fund managers ("IFMs") and the individuals who control them faithfully and diligently fulfill their fiduciary duty to act in the best interests of their funds and the investors in those funds. Investors must be in a position to believe that their investments will be treated with the utmost care by those in whose trust they are placed. This matter concerns the conduct of Clayton Smith ("Smith" or the "Respondent") who engaged in fraud, and breached his duty to act fairly, honestly and in good faith with clients, while directing the affairs, and being the registered Ultimate Designated Person ("UDP") and Chief Compliance Officer ("CCO"), of a registered firm, Crystal Wealth Management System Limited ("Crystal Wealth").

2. The Ontario Securities Commission (the "Commission") will issue a Notice of Hearing (the "Notice of Hearing") to announce that it will hold a hearing to consider whether, pursuant to subsections 127(1) and 127.1(1) of the *Securities Act*, RSO 1990, c S.5 (the "Act"), it is in the public interest for the Commission to make certain orders in respect of the conduct described herein.

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 VI of this Agreement. The Respondent consents to the making of an order (the "Order") in the form attached as Schedule A to this 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 Agreement and the conclusions in Part IV of this Agreement.

PART III – AGREED FACTS

A. OVERVIEW

5. The conduct at issue in this case occurred during the period April 2012 to April 2017 (the "Material Time").

6. Smith was an experienced market participant and registered with the Commission during the Material Time. Crystal Wealth was the IFM, portfolio manager ("PM") and trustee for a suite of 15 proprietary investment funds ("Crystal Wealth Funds"). Smith was the directing mind of Crystal Wealth, its sole officer and director as well as the firm's UDP and CCO.

7. Smith, Crystal Wealth and Smith's holding companies engaged in fraud involving two Crystal Wealth Funds – Crystal Wealth Mortgage Strategy (formerly, Crystal Enhanced Mortgage Fund, the "Mortgage Fund") and Crystal Wealth Media Strategy (formerly, Crystal Wealth Strategic Yield Media Fund, the "Media Fund"). Smith caused monies to be advanced from the Mortgage and Media Funds, purportedly in connection with the purchase of investments for the funds. In fact, at Smith's direction, certain of the monies were transferred directly to Smith's holding company, as described in paragraph 22. With respect to other monies, Smith instructed the third-party recipients to transfer the funds to Smith, his holding company or a related company.

8. Smith also arranged to personally receive payments from an entity that sold investments to the Media Fund, creating a material conflict of interest that Crystal Wealth neither responded to nor disclosed.

9. By engaging in fraud and failing to respond to or disclose a material conflict, Crystal Wealth breached its obligation to discharge its duties honestly, in good faith and in the best interests of the Mortgage and Media Funds. Smith and Crystal Wealth continued to cause Crystal Wealth clients to be invested in the Mortgage and Media Funds and in so doing, they failed to deal fairly, honestly and in good faith with clients.

10. As Crystal Wealth's CCO and UDP, Smith failed to discharge his obligations to ensure, promote and monitor compliance with securities legislation by Crystal Wealth and individuals acting on its behalf. He also misled Staff during his examination under oath about his relationship to one of the corporate entities involved in the fraud.

B. DETAILED FACTS

(1) Crystal Wealth, Clayton Smith and Smith's Holding Companies

11. Crystal Wealth is a Burlington-based Ontario corporation that was registered with the Commission in several categories, including as an IFM and PM.

12. Crystal Wealth created and managed the Crystal Wealth Funds, which were structured as open-ended mutual fund trusts and distributed on a prospectus-exempt basis, pursuant to offering memoranda ("OMs").

13. Crystal Wealth performed the roles of trustee, IFM, PM and promoter for the Crystal Wealth Funds. As the IFM, Crystal Wealth managed the day-to-day business of the Crystal Wealth Funds and oversaw the PM function. As PM, Crystal Wealth was required to make suitable investment decisions for the Crystal Wealth Funds' portfolios consistent with the respective fund's investment objectives.

14. As at April 20, 2017, Crystal Wealth recorded a value for the assets under management ("AUM") of all of the Crystal Wealth Funds of approximately $193,198,912.

15. There were approximately 1,250 Crystal Wealth clients that had discretionary managed accounts for which Crystal Wealth was the PM. Many of these clients were invested in various of the Crystal Wealth Funds. Smith was the advising representative for a number of clients with managed accounts.

16. Smith, an Ontario resident, founded Crystal Wealth in 1998 and was the firm's directing mind. From 1998 onward, Smith was Crystal Wealth's President, Chief Executive Officer and Chief Financial Officer. During the Material Time, Smith beneficially owned a controlling interest in Crystal Wealth and was its sole officer and director.

17. Smith was registered with the Commission in a number of capacities, including as an advising representative in the category of PM, and as Crystal Wealth's CCO and UDP. As CCO and UDP, Smith bore responsibility for supervising, promoting and monitoring Crystal Wealth's compliance with Ontario securities law.

18. Smith was also the directing mind of CLJ Everest Ltd. ("CLJ Everest") and 1150752 Ontario Limited ("115 Limited"), Ontario holding companies for which Smith was the sole officer and director. Smith owned 100% of CLJ Everest which, in turn, owned 100% of 115 Limited's voting shares. 115 Limited owned the majority of Crystal Wealth's outstanding shares. 115 Limited's registered business name was MBS Partners.

19. Crystal Wealth Marketing Inc. ("CWMI") is an Ontario company that was owned by Smith and Scott Whale ("Whale"), a shareholder and advising representative of Crystal Wealth. Smith acted as a director and officer of CWMI between August 2014 and February 2015, when the conduct described in Part III.B(5) occurred.

20. Chrysalis Yoga Inc. ("Chrysalis") is a yoga studio owned by Smith's former common law wife, at which Smith taught yoga and meditation part-time. Smith was initially a 50% owner and a director and officer of Chrysalis. During much of the Material Time, Smith dealt with Chrysalis' finances and bookkeeping and had signing authority over its bank account.

(2) Misappropriation of Investor Monies from the Mortgage Fund involving 115 Limited

21. The April 12, 2007 and August 31, 2012 Offering Memoranda for the Mortgage Fund (the "Mortgage Fund OMs") stated that the Mortgage Fund's investment objective was to "generate a consistently high level of interest income while focusing on preservation of capital by investing primarily in residential mortgages in Canada." The Mortgage Fund OMs also stated that Crystal Wealth would enter into agreements with independent companies to procure and service mortgage loans and that Crystal Wealth would rely on the expertise of licensed mortgage brokers to service and monitor the mortgages in which the Mortgage Fund invested.

22. Despite these representations, during the period of April 2012 to September 2013, Smith caused the Mortgage Fund to make six payments, totaling approximately $894,932, to his holding company, 115 Limited. 115 Limited was neither independent nor a registered mortgage broker and the six payments were not used to acquire mortgages from 115 Limited. Instead, shortly after each payment from the Mortgage Fund, Smith caused 115 Limited to pay all, or a significant portion, of the funds to Chrysalis, CLJ Everest (Smith's holding company), or himself. In total, Smith caused 115 Limited to pay $511,000 to Chrysalis, $389,000 to CLJ Everest and $10,000 to himself, substantially with funds received from the Mortgage Fund.

23. Subsequently, in respect of these transactions, Smith advised the Mortgage Fund's auditors, BDO Canada LLP ("BDO") that the Mortgage Fund held interests in mortgages obtained through an entity known as MBS Partners (the

"Purported Mortgage Investments"). The amounts of the advances from the Mortgage Fund to 115 Limited correspond approximately to the principal amounts for six Purported Mortgage Investments reflected in the correspondence provided to BDO.

(3) Misappropriation of Investor Monies from the Media and Mortgage Funds

24. The Media Fund was the largest of the Crystal Wealth Funds, with a recorded AUM of approximately $54,466,843 as at April 20, 2017. The April 30, 2013 and August 30, 2014 Offering Memoranda for the Media Fund (the "Media Fund OMs") stated that the Media Fund's investment objective was "to generate a high level of interest income with minimum volatility and low correlation to most traditional asset classes by investing in asset-backed debt obligations of motion pictures and series television productions."

25. According to the Media Fund OMs, Media House Capital (Canada) Corp. ("Media House") was to source, advise in connection with the procurement of and service investments in film loans for the Media Fund. On behalf of the Media Fund, Smith dealt principally with Aaron Gilbert ("Gilbert"), Media House's majority shareholder and sole director, and Steven Thibault ("Thibault"), Media House's Vice President, Finance. After the purchase of a film loan by the Media Fund, Media House was to monitor and report on the performance of the investment, including the actual sales performance of the related production compared with target projections on an ongoing basis.

26. The Media Fund OMs described the film loans it intended to purchase as short to medium term loans of 12 to 30 months that have been made "to independent producers used to fund a portion of the production costs to complete motion pictures and series television productions." Once a potential debt investment was sourced for the Media Fund by Media House, which was to have evaluated it and reported on whether it complied with due diligence guidelines, Crystal Wealth was to perform its due diligence and examine how the new debt fit into the overall investment portfolio from a diversification point of view.

27. Among the film loans recorded in the Media Fund's financial statements were six film loans acquired from Media House during the period October 2013 to July 2015 (the "Bron Film Loans") that were for film productions produced by Gilbert's company, Bron Studios Inc. ("Bron Studios"). Gilbert and Thibault had a role with the borrower film production companies on the Bron Film Loans, and signed loan documents on behalf of both Media House as lender, and the production companies as borrower. The Media Fund acquired four of the Bron Film Loans from Media House. Two of the Bron Film Loans were initially purchased by the Mortgage Fund and subsequently sold to the Media Fund. The monies for the Bron Film Loans flowed largely from the Media Fund or the Mortgage Fund to Media House, Bron Animation Inc. ("Bron Animation") or BSI Developments Inc. ("BSI Developments"), other companies related to Gilbert.

28. With respect to three of the Bron Film Loans (*Henchmen*, *Mercy* and *Kingdom*), Smith caused the Media Fund to advance investor monies to Media House or Bron Animation in tranches, and then directed Gilbert and/or Thibault to:

    (a) transfer a portion of the funds advanced from the Media Fund to Smith, CLJ Everest and Chrysalis, which resulted in transfers totaling approximately $465,000 to Smith, $2.3 million to CLJ Everest and $125,000 to Chrysalis; and

    (b) transfer approximately $4.1 million of the funds advanced from the Media Fund to Spectrum-Canada Mortgage Services Inc. ("Spectrum"), a service provider for the Mortgage Fund, to buy from the Mortgage Fund:

        (i) certain mortgages in arrears involving third parties; and

        (ii) the Purported Mortgage Investments;

        on behalf of Media House or BSI Developments, removing these mortgages and the Purported Mortgage Investments from the Mortgage Fund's books.

29. With respect to the purchase of another Bron Film Loan (*A Good Day's Work*) by the Mortgage Fund, Smith directed Spectrum to advance $1.25 million from funds held in trust for the Mortgage Fund to BSI Developments. Smith then directed Gilbert and Thibault to, on receiving the funds advanced, transfer approximately $1 million of the funds to a law firm representing Smith, which funds were then used for the purchase of a residential property for Smith in Burlington, Ontario, and approximately $200,000 to CLJ Everest. Smith later caused the Mortgage Fund to advance additional monies to BSI Developments as additional loan advances for *A Good Day's Work*. These monies were substantially used by Gilbert and/or Thibault to transfer $375,000 to CLJ Everest.

30. Smith used the monies that had been transferred to him and to CLJ Everest, as described in subparagraph 28(a) and paragraph 29, substantially for personal purposes, including the purchase of another residential property at which Smith resided in Burlington, Ontario. Some of the funds were transferred to Crystal Wealth.

(4) Misappropriation of Investor Monies from the Mortgage Fund involving CLJ Everest

31. Smith caused Crystal Wealth to enter into an agreement (the "Master Financing Agreement") dated July 6, 2016 with Magnitude CS Energy Inc. ("MCS"), which was described as being in the business of installing power and heat co-generating equipment for large energy users ("MCS Energy Projects"). Craig Clydesdale ("Clydesdale"), an Ontario resident, is a director and officer of MCS. The Master Financing Agreement contemplated that the Crystal Wealth Funds could provide financing for MCS Energy Projects, and that separate project specific financing agreements would be entered into. In addition, CLJ Everest entered into an agreement dated July 6, 2016 with MCS, pursuant to which CLJ Everest would be paid a monthly consulting fee of "15% of the Net Free Cash Flow from all Energy Projects" for its assistance with any aspect of MCS's business operations.

32. Smith also caused Crystal Wealth and CLJ Everest to enter into a share purchase agreement (the "Share Purchase Agreement") dated October 21, 2016 with Whale. The Share Purchase Agreement provided that CLJ Everest would acquire all of Whale's shares in Crystal Wealth for a purchase price of $1,586,277, with a closing date of November 7, 2016.

33. On November 2, 2016, Smith caused the Mortgage Fund to advance $2 million to MCSNoxrecovery ("MCSNox"), another Clydesdale company, which was recorded as a loan in the Mortgage Fund's financial statements. On November 7, 2016, MCSNox advanced $1.75 million to CLJ Everest, substantially funded with the monies received from the Mortgage Fund. The day after MCSNox advanced the $1.75 million to CLJ Everest, Smith caused CLJ Everest to use $1,586,277 of it to buy the Crystal Wealth shares held by Whale.

34. The course of conduct Smith and Crystal Wealth engaged in with respect to the Mortgage and Media Funds as described in sections (2) and (3) above and this section (4), was deceptive and placed the pecuniary interests of Mortgage and Media Funds' investors at risk. By engaging in this conduct, Smith, Crystal Wealth, CLJ Everest and 115 Limited engaged or participated in acts, practices or courses of conduct relating to the Mortgage and Media Funds that Smith, Crystal Wealth, CLJ Everest and 115 Limited, knew or reasonably ought to have known perpetrated a fraud on investors, in breach of subsection 126.1(1)(b) of the Act.

(5) Failure to Respond to or Disclose Material Conflict of Interest

35. Between August 2014 and February 2015, Smith received a substantial financial benefit from the purchase of certain film loans by the Media Fund from Media House. At the time, Smith was the directing mind of Crystal Wealth, and on behalf of Crystal Wealth, served as the lead PM for the Media Fund. The benefit obtained by Smith created a material conflict of interest that Crystal Wealth neither responded to nor disclosed to investors.

36. According to the Media Fund OMs, Media House was to receive compensation for sourcing and administering the film loans in the form of a loan facilitation fee of up to 10% of the face value of any loans the Media Fund purchased from Media House (the "Loan Facilitation Fee"). Crystal Wealth was to receive a management fee at an annual rate of 2% of the AUM of the Media Fund.

37. The Media Fund OMs did not disclose that for several of the film loans, a portion of the Loan Facilitation Fee was paid to CWMI, a company for which Smith was a 50% shareholder, and an officer and director. From August 2014 to February 2015, Media House and Bron Management Ltd., another company associated with Gilbert, paid CWMI approximately 30% of the Loan Facilitation Fee on film loans acquired by the Media Fund during that period. The Loan Facilitation Fee payments to CWMI totaled approximately $622,780. CWMI used substantially all of the monies to make payments to its two shareholders, Whale and Smith. Smith received $323,000, funded substantially from those Loan Facilitation Fee payments.

38. Causing the Media Fund to purchase film loans for which Smith received a substantial personal payment created a material conflict of interest that Crystal Wealth had an obligation to respond to and that reasonable investors would be expected to be informed about. Crystal Wealth failed to respond to or disclose the conflict to investors, contrary to subsections 13.4(2) and (3) of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103").

(6) Failure to Deal Fairly, Honestly, and in Good Faith with Clients

39. As registered advisers, Crystal Wealth and Smith had an obligation to deal honestly, fairly and in good faith with their clients. While Smith and Crystal Wealth engaged in the conduct described in sections (2) to (5) above, Smith and

Crystal Wealth caused clients to be invested in the Mortgage and Media Funds. In so doing, Smith and Crystal Wealth breached their obligation to deal fairly, honestly and in good faith with clients, contrary to section 2.1 of OSC Rule 31-505 – *Conditions of Registration* ("OSC Rule 31-505").

(7) Failure to Discharge Duties as an IFM Honestly, in Good Faith, and in the Best Interests of the Investment Fund

40. Crystal Wealth was the IFM for the Mortgage and Media Funds, and as such, had the obligation to discharge its duties honestly, in good faith, and in the best interests of the Mortgage and Media Funds. Crystal Wealth, as trustee for the Crystal Wealth Funds, had an express fiduciary obligation under the master declaration of trust for the funds, to act in good faith and in the best interests of the unitholders or investors, who were the beneficiaries of the trusts and whose monies were entrusted to Crystal Wealth.

41. By engaging in the conduct described in sections (2) to (5) above, Crystal Wealth breached its fiduciary duty and failed to discharge its duties honestly, in good faith and in the best interests of the Mortgage and Media Funds, contrary to subsection 116(a) of the Act.

(8) Failure to Discharge Duties of CCO and UDP

42. As Crystal Wealth's CCO, Smith had an obligation pursuant to section 5.2 of NI 31-103 to establish policies and procedures directed towards assessing compliance by Crystal Wealth with securities legislation and to monitor and assess compliance with securities legislation by Crystal Wealth and individuals acting on its behalf.

43. As Crystal Wealth's UDP, Smith had an obligation pursuant to section 5.1 of NI 31-103 to supervise the activities of Crystal Wealth that were directed towards ensuring compliance with securities legislation and to promote compliance with securities legislation by Crystal Wealth and the individuals acting on its behalf.

44. In light of the conduct that Smith and Crystal Wealth engaged in described in sections (2) to (7) above, Smith failed to fulfil his obligation as CCO and UDP of Crystal Wealth to ensure, promote and monitor compliance with securities legislation by Crystal Wealth and individuals acting on its behalf, contrary to sections 5.1 and 5.2 of NI 31-103.

(9) Misleading Staff

45. Smith was examined under oath by Staff on September 26 and 27, 2017 pursuant to subsection 13(1) of the Act. During this examination, Staff asked questions about various entities Smith dealt with on behalf of the Mortgage Fund, including MBS Partners, the entity through which Smith and Crystal Wealth perpetrated a fraud as described in section (2), above. During the examination, Smith misled Staff by:

    (a) falsely stating that neither he nor Crystal Wealth had an interest in MBS Partners, when in fact Smith beneficially owned 100% of the voting shares of MBS Partners, which was the business name that was registered for Smith's company, 115 Limited, and Smith was the director, officer and directing mind of 115 Limited; and

    (b) falsely stating that MBS Partners had no interest in Crystal Wealth, when in fact 115 Limited owned the majority of Crystal Wealth's outstanding shares throughout the Material Time.

46. Smith thereby breached subsection 122(1)(a) of the Act because he made statements that, in a material respect, and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

PART IV – NON-COMPLIANCE WITH ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

47. The Respondent acknowledges and admits that, during the Material Time:

    (a) the Respondent engaged in or participated in acts, practices and courses of conduct relating to securities that the Respondent knew or reasonably ought to have known perpetrated a fraud on the Mortgage and Media Funds and their investors, contrary to subsection 126.1(1)(b) of the Act;

    (b) the Respondent did not deal fairly, honestly and in good faith with the Respondent's clients, contrary to subsection 2.1(2) of OSC Rule 31-505;

(c) the Respondent did not comply with the Respondent's obligations as the UDP and CCO of Crystal Wealth, contrary to sections 5.1 and 5.2 of NI 31-103;

(d) the Respondent made statements in evidence submitted to Staff that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state facts that were required to be stated or that were necessary to make the statements not misleading, contrary to subsection 122(1)(a) of the Act;

(e) the Respondent, a director and officer of Crystal Wealth, CLJ Everest and 115 Limited, authorized, permitted or acquiesced in each company's non-compliance with Ontario securities law, and is deemed not to have complied with Ontario securities law under section 129.2 of the Act; and

(f) as set out in subparagraphs (a) through (e) above, the Respondent engaged in conduct contrary to the public interest.

PART V – STAFF'S POSITION

48. On April 26, 2017, on application by the Commission under subsection 129(1) of the Act, the Ontario Superior Court of Justice made an order appointing Grant Thornton Limited (the "Receiver") receiver and manager of the assets of Smith, personally, and the assets of Crystal Wealth, the Crystal Wealth Funds, CLJ Everest, 115 Limited and receiver of a bank account owned by Chrysalis. Through the receivership proceeding (the "Receivership"), the Receiver has begun and continues to liquidate and distribute assets.

49. As of May 1, 2018, approximately $30,817,199 has been returned to investors through the Receivership.

50. But for the appointment of the Receiver over Smith's assets for the benefit of investors and other creditors, Staff would seek monetary sanctions against Smith significantly greater than the $250,000 administrative penalty and $50,000 in costs set forth in subparagraphs 52(j) and 52(k) below.

PART VI – TERMS OF SETTLEMENT

51. The Respondent agrees to the terms of settlement set forth below.

52. The Respondent consents to the Order, pursuant to which it is ordered that:

(a) this Agreement be approved;

(b) the registrations granted to the Respondent under Ontario securities law be terminated, pursuant to paragraph 1 of subsection 127(1) of the Act;

(c) trading in any securities or derivatives by the Respondent cease permanently, pursuant to paragraph 2 of subsection 127(1) of the Act;

(d) the acquisition of any securities by the Respondent be prohibited permanently, pursuant to paragraph 2.1 of subsection 127(1) of the Act;

(e) any exemptions contained in Ontario securities law not apply to the Respondent permanently, pursuant to paragraph 3 of subsection 127(1) of the Act;

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

(g) the Respondent immediately resign any position that the Respondent holds as a director or officer of an issuer, a registrant or an investment fund manager, pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;

(h) the Respondent be permanently prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager, pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act;

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

(j) the Respondent pay an administrative penalty in the amount of $250,000 pursuant to paragraph 9 of subsection 127(1) of the Act, which amount shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

(k) the Respondent pay costs in the amount of $50,000, pursuant to subsection 127.1(1) of the Act.

53. The Respondent acknowledges that, in addition to any proceedings referred to in paragraph 56, failure to pay in full any monetary sanctions and/or costs ordered will result in the Respondent's name being added to the list of "Respondents Delinquent in Payment of Commission Orders" published on the Commission's website.

54. The Respondent consents to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in paragraph 52, other than subparagraphs 52(a), 52(j) and 52(k). These sanctions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

55. The Respondent acknowledges that this Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of certain Canadian jurisdictions allow orders made in this matter to take effect in them 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-related activities, prior to undertaking such activities.

PART VII – FURTHER PROCEEDINGS

56. If the Commission approves this 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 Agreement, unless the Respondent fails to comply with any term in this Agreement, other than subparagraphs 52(j) and 52(k) (a "Breach"). If a Breach occurs, 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 Agreement, as well as the Breach.

57. The Respondent waives any defences to a proceeding referenced in paragraph 56 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 Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

58. The parties will seek approval of this Agreement at a public hearing (the "Settlement Hearing") before the Commission, which will be held on a date determined by the Secretary to the Commission in accordance with this Agreement and the Commission's *Rules of Procedure* (2017), 40 OSCB 8988.

59. The Respondent will attend the Settlement Hearing in person.

60. The parties confirm that this 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.

61. If the Commission approves this Agreement:

(a) the Respondent 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 Agreement or with any additional agreed facts submitted at the Settlement Hearing.

62. Whether or not the Commission approves this Agreement, the Respondent will not use, in any proceeding, this Agreement or the negotiation or process of approval of this 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 IX – DISCLOSURE OF AGREEMENT

63. If the Commission does not make the Order:

(a) this 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 Agreement, or by any discussions or negotiations relating to this Agreement.

64. The parties will keep the terms of this Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART X – EXECUTION OF AGREEMENT

65. This Agreement may be signed in one or more counterparts which together constitute a binding agreement.

66. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Burlington, Ontario as of the 28th day of May, 2018.

"Jillian Van Osch"
Witness: Jillian Van Osch

"Clayton Smith"
CLAYTON SMITH

DATED at Toronto, Ontario, as of the 28th day of May, 2018.

ONTARIO SECURITIES COMMISSION

By: "Jeff Kehoe"
Jeff Kehoe
Director, Enforcement Branch

SCHEDULE A

FORM OF ORDER

File No. [#]

IN THE MATTER OF
CLAYTON SMITH

[**Name of Chair of Panel**], Commissioner and Chair of the Panel
[**Name of Commissioner**], Commissioner
[**Name of Commissioner**], Commissioner

[**Day and date Order made**]

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

WHEREAS on [**date**], 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 an application made jointly by Clayton Smith (the "Respondent") and Staff ("Staff") of the Commission for approval of a settlement agreement dated as of [**date**] (the "Agreement");

ON READING the Statement of Allegations dated [date] and the Joint Application Record for a Settlement Hearing dated [**date**], including the Agreement;

AND ON HEARING the submissions of the Respondent and Staff;

IT IS ORDERED THAT:

1. the Agreement be approved;

2. the registrations granted to the Respondent under Ontario securities law be terminated, pursuant to paragraph 1 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the "Act");

3. trading in any securities or derivatives by the Respondent cease permanently, pursuant to paragraph 2 of subsection 127(1) of the Act;

4. the acquisition of any securities by the Respondent be prohibited permanently, pursuant to paragraph 2.1 of subsection 127(1) of the Act;

5. any exemptions contained in Ontario securities law not apply to the Respondent permanently, pursuant to paragraph 3 of subsection 127(1) of the Act;

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

7. the Respondent immediately resign any position that the Respondent holds as a director or officer of an issuer, a registrant or an investment fund manager, pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;

8. the Respondent be permanently prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager, pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act;

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

10. the Respondent pay an administrative penalty in the amount of $250,000 pursuant to paragraph 9 of subsection 127(1) of the Act, which amount shall be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

11. the Respondent pay costs in the amount of $50,000, pursuant to subsection 127.1(1) of the Act.

_____

[**Name of Chair of Panel**]

_____

[**Name of Commissioner**]

_____

[**Name of Commissioner**]

2.3.4 Benedict Cheng et al. – ss. 127(1), 127.1

IN THE MATTER OF
BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN AND
ERIC TREMBLAY

Mark J. Sandler, Commissioner and Chair of the Panel

June 15, 2018

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

WHEREAS on June 15, 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 Application made jointly by Benedict Cheng (**Cheng** or the **Respondent**) and Staff of the Commission for approval of a settlement agreement dated June 12, 2018 (the **Settlement Agreement**);

ON READING the Amended Statement of Allegations dated October 26, 2017 and the Joint Application Record for a Settlement Hearing, including the Settlement Agreement and Undertaking of the Respondent (attached as Annex I to this Order), and on hearing the submissions of the representatives of Staff and the Respondent, and considering that the $350,000 administrative penalty and $50,000 for costs payable by the Respondent have been received by the Commission in accordance with the terms of the Settlement Agreement;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;

2. the Respondent is prohibited from trading in any securities or derivatives and from acquiring any securities for a period of 6 years from the date of this Order, pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act;

3. any exemptions contained in Ontario securities law shall not apply to the Respondent for a period of 6 years from the date of this Order, pursuant to paragraph 3 of subsection 127(1) of the Act;

4. the Respondent shall resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;

5. the Respondent is prohibited from becoming or acting as a director or officer of any issuer for a period of 6 years from the date of this Order, pursuant to paragraph 8 of subsection 127(1) of the Act;

6. the Respondent shall resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

7. the Respondent is prohibited from becoming or acting as a director or officer of a registrant for a period of 6 years from the date of this Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

8. the Respondent shall resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;

9. the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 6 years from the date of this Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;

10. the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of 6 years from the date of this Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

11. the Respondent shall pay an administrative penalty in the amount of $350,000.00, pursuant to paragraph 9 of subsection 127(1) of the Act, which 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;

12. the Respondent shall pay costs of the investigation in the amount of $50,000, pursuant to section 127.1 of the Act;

13. notwithstanding any other provision contained in this Order, the Respondent is permitted to:

    a. personally trade and/or acquire mutual funds, Exchange Traded Funds, government bonds and/or Guaranteed Investment Certificates for the account of any Registered Retirement Savings Plan ("RRSP"), Registered Retirement Income Fund ("RRIF"), Registered Education Savings Plan ("RESP") and Tax Free Savings Account ("TFSA"), as defined in the *Income Tax Act*, RSC 1985, c.1, as amended, in which he and/or his children and/or his spouse have sole legal and beneficial ownership, solely through a registered dealer in Ontario, to whom Cheng must have given a copy of this Order;

    b. retain the services of one or more independent, arms-length dealer/portfolio manager(s) who are registered in accordance with Ontario securities law, to trade and/or acquire securities in any RRSP, RRIF, RESP and/or TFSA, on Cheng's behalf, provided that:

        i. the respective dealer/portfolio manager(s) is provided with a copy of this Order prior to trading or acquiring securities on Cheng's behalf;

        ii. the respective dealer/portfolio manager(s) has sole discretion over what trades and acquisitions may be made in the account and Cheng has no direction or control over the selection of specific securities;

        iii. Cheng is permitted to have annual discussions with the respective registered dealer/portfolio manager(s) for the sole purpose of Cheng providing information regarding general investment objectives, suitability and risk tolerance or as required under Ontario securities law; and

        iv. Cheng may change registered dealer/portfolio manager(s), subject to the conditions set out above, with notice to the Commission of any such change to be filed by Cheng within 30 days of making such change; and

    c. within 60 days from the date of this Order, and with notice to the Commission, dispose of such securities which are not held in Cheng's RRSP, RRIF, RESP and/or TFSA as described in subparagraph 13(a) above or otherwise transfer management of any such securities to a discretionary account as described in subparagraph 13(b) above.

“Mark J. Sandler”

ANNEX I TO ORDER

I, BENEDICT CHENG, hereby undertake to cooperate with Staff ("Staff") of the Ontario Securities Commission (the "Commission") in its investigation into illegal insider trading and tipping in securities of Amaya Gaming Group Inc., including, if required, testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out in my Settlement Agreement with Staff dated June 12, 2018, and meeting with Staff in advance of any such proceeding to prepare for that testimony.

EXECUTED at Toronto, on June 12, 2018.

"Shara Roy"
Witness

"Benedict Cheng"
BENEDICT CHENG

IN THE MATTER OF
BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN AND
ERIC TREMBLAY

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. This is a case involving insider tipping by a senior registrant. It is essential to the fairness of, and confidence in, Ontario's capital markets, that senior registrants, such as Benedict Cheng (the "Respondent" or "Cheng"), not breach their obligations of confidentiality in respect of generally undisclosed material facts, nor suggest to others that they share that information. Despite initially misleading Staff, by agreeing to cooperate fully, Cheng has received credit for cooperation.

2. The parties shall 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 public hearing (the "Settlement Hearing") to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), it is in the public interest for the Commission to make certain orders in respect of Cheng.

PART II – JOINT SETTLEMENT RECOMMENDATION

3. Staff recommend settlement of the proceeding (the "Proceeding") commenced by the Notice of Hearing dated April 12, 2017 against the Respondent in accordance with the terms and conditions set out in Part VI of this Settlement Agreement (the "Settlement Agreement"). The Respondent consents to the making of an order (the "Order") in the form attached as Schedule "A" to this 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 conclusions in Part IV of this Settlement Agreement.

PART III – AGREED FACTS

Overview

5. While employed as the Co-Chief Investment Officer and Portfolio Manager of Aston Hill Asset Management Inc. ("AHAMI"), Cheng became aware of generally undisclosed material facts with respect to Amaya Gaming Group Inc. ("Amaya").

6. The Respondent was in a special relationship with Amaya based on his knowledge of AHAMI's participation in the financing of a transaction involving Amaya.

7. Cheng informed John David Rothstein ("Rothstein") about some of the material facts before they were generally disclosed, contrary to subsection 76(2) of Act. Cheng also suggested to Rothstein that he convey those material facts to Frank Soave ("Soave") before they were generally disclosed.

8. In the course of its investigation, Staff examined Cheng under oath pursuant to subsection 13(1) of the Act. In the course of that examination, Cheng made misleading statements to Staff on material matters and/or omitted facts required to make the statements not misleading, contrary to paragraph 122(1)(a) of the Act.

9. Cheng disclosed to Rothstein the nature and some of the content of the confidential summons he received from Staff on May 4, 2016, plus information about his confidential examination, contrary to section 16 of the Act.

Background

10. In 2014, AHAMI was a wholly-owned subsidiary of Aston Hill Financial Inc. ("AHF").

11. According to AHF's Annual Information Form for the year ended December 31, 2014, in 2014:

    (a) AHF (through its subsidiaries) was engaged in the management, marketing, distribution and administration of mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds;

(b) AHAMI was a Toronto-based registered investment fund manager specializing in the development, sales and management of closed-end investment funds, open-end funds and hedge funds; and

(c) AHF was a reporting issuer in Ontario with its shares publicly traded on the Toronto Stock Exchange ("TSX") under the symbol "AHF".

12. Between January 2007 and September 2016, the Respondent was the President of AHF and the Co-Chief Investment Officer at AHF and AHAMI. Cheng had been registered with the Commission since at least 1997.

13. In 2014, Rothstein was a senior Vice President and National Sales Manager at AHAMI. In 2014, Rothstein reported to Cheng and Cheng was his boss.

Cheng Learns About the Acquisition

14. On or about April 25, 2014, a representative of Canaccord Genuity Group Inc. ("Canaccord") invited AHAMI to sign a non-disclosure agreement ("NDA") in order to attend a meeting to learn about an investment opportunity which, to pursue, required AHAMI to learn generally undisclosed material facts about Amaya.

15. After learning about the opportunity, Cheng agreed to have AHF sign the NDA on behalf of AHAMI. On April 29, 2014, a representative of AHAMI met with representatives of Canaccord and Amaya and learned about a proposed transaction whereby Amaya would acquire all of the issued and outstanding shares of Oldford Group Limited, the parent company of the owner and operator of the PokerStars and Full Tilt Poker brands, in a transaction valued at over US$4 billion (the "Acquisition"). The Acquisition was a material fact in respect of Amaya.

16. The investment opportunity was for funds managed by AHAMI to participate in financing the Acquisition (together with significant debt from other lenders and new Amaya shares to be issued at $20 per share).

17. In 2014, Amaya shares traded on the TSX under the symbol AYA. The price for Amaya shares closed on the TSX on April 29, 2014 at $6.82 per share. Amaya's intention to issue new shares at $20 per share represented a significant premium over the then market price for those shares, and was also a material fact with respect to Amaya.

18. Two funds managed by Cheng agreed to participate in financing the Acquisition and, as such, Cheng knew of the Acquisition before its existence was generally disclosed, and the material fact that it was intended that new Amaya shares be issued at approximately $20 per share. Cheng was subsequently aware of delays to the final timing of the Amaya press release publicly announcing the Acquisition.

19. Rothstein was not part of the group at AHAMI that worked on providing financing for the Acquisition. Cheng understood that, until the events described below, Rothstein did not know about the Acquisition or its intended announcement on June 12, 2014.

Soave's Argent Losses

20. AHF, through its Calgary office, had an administration and management agreement with Argent Energy Trust and/or related companies (collectively, "Argent"), which owned oil and gas assets in several US states. Eric Tremblay ("Tremblay"), AHF's Chairman and Chief Executive Officer ("CEO") and the ultimate designated person ("UDP") of AHAMI, was also chairman of Argent. Argent's securities were listed on the TSX.

21. Soave was an investment advisor operating from a CIBC Wood Gundy ("CIBC") branch in Thornhill, Ontario. He and several other investment advisors at that branch had purchased Argent securities on their own behalf and/or on behalf of clients.

22. Cheng learned from Rothstein and others in early 2014 that Soave and/or other CIBC investment advisors and/or their clients had suffered significant losses in Argent. Rothstein conveyed to Cheng that Soave (on his own behalf and on behalf of one or more other CIBC investment advisors and/or clients) would most likely sell off Argent securities and potentially other funds managed by AHAMI unless Soave received some sort of compensation.

Cheng Tells Rothstein About the Acquisition

23. On or before June 11, 2014, Rothstein spoke with Cheng. Cheng told Rothstein about the Amaya Acquisition and that it would occur soon. Cheng told Rothstein that he could pass along this tip to Soave and other CIBC Thornhill advisors.

24. At some point after that conversation, Rothstein spoke with Cheng and asked Cheng who the main parties were involved in the pending Amaya Acquisition. Cheng responded that he believed that "BlackRock" and "Blackstone" were

the main private equity sponsors, meaning BlackRock Inc. and The Blackstone Group L.P., two large U.S.-based asset managers. The participation of BlackRock and Blackstone in the Acquisition was a material fact with respect to Amaya. Rothstein seemed satisfied with that information and then ended the conversation.

25. Amaya publicly announced the Acquisition on June 12, 2014. The price for Amaya shares opened on the TSX on June 13, 2014 at $19.05 per share.

Subsequent Discussions

26. During a trip to Rio de Janeiro in mid-June 2014, Tremblay asked Cheng to join a conversation with Michael Killeen ("Killeen"), the Chief Operating Officer of AHF and the President of AHAMI. Killeen informed Tremblay and Cheng that John Hanrahan, the President, Chief Compliance Officer, CEO and UDP of Aston Hill Securities ("AHS") (another AHF subsidiary) had been looking into trading in Amaya securities by AHS brokers prior to the June 12, 2014 announcement of the Acquisition.

27. In or around late June 2014:

    (a) Cheng spoke with Tremblay by telephone. Tremblay was concerned, as he had been for some time, about complaints concerning Argent's performance from Soave and other brokers at the CIBC Thornhill branch. In response, Cheng conveyed that he believed Rothstein had told Soave about the Acquisition. Tremblay was relieved; and

    (b) Rothstein confirmed to Cheng that he had told Soave about the Acquisition in advance of its announcement.

28. On or about June 30, 2014, Cheng and other executives at AHF/AHAMI, including Tremblay, Killeen and Larry Titley ("Titley"), the Chief Financial Officer of AHF, were in the Dominican Republic.

29. In the mid-afternoon, Tremblay asked Cheng to meet with him and Killeen at a poolside cabana. When Cheng arrived at the cabana, Tremblay and Killeen were already there. Cheng recalls the following about that conversation:

    (a) Killeen described the steps that he was taking with respect to his investigation into trading in Amaya at AHAMI. Tremblay wanted to know when the review would be finished.

    (b) Later in the conversation, Tremblay mentioned to Killeen that Cheng had told Rothstein about the Acquisition and Cheng had suggested to Rothstein that he inform Soave about the Acquisition.

30. In late July 2014, likely on or about July 24, 2014, Cheng recalls that he met Tremblay, Killeen, Titley and others from AHF/AHAMI (specifically Sasha Rnjak, Derek Slemko and Kal Zakarneh) at the patio at Bymark restaurant on Wellington Street in Toronto. Cheng and others in that group then proceeded to a charity poker tournament. Cheng does not recall whether or not he discussed with Killeen or others on the Bymark patio any matters concerning Amaya, but does not deny that such a discussion may have taken place.

Cheng Provides Misleading Information to Staff

31. On or about May 4, 2016, the Commission issued and served Cheng with a summons pursuant to subsection 13(1) of the Act (the "Summons"), compelling him to attend for an examination with Staff pursuant to subsection 13(1) of the Act, and to provide documents relating to Amaya during the period September 1, 2013 to December 31, 2014. The cover letter to the Summons explained the confidentiality requirements surrounding Staff's investigation as per section 16 of the Act, and reproduced the full text of that provision.

32. Cheng was ultimately examined under oath by Staff on or about June 9, 2016 (the "Examination").

33. During his Examination, Cheng made several statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading. In particular, Cheng misled Staff by:

    (a) denying that he informed Rothstein of material facts before they were generally disclosed; and

    (b) claiming not to know anything about Rothstein informing Soave about material facts before they were generally disclosed.

34. These statements were materially misleading and were not corrected by Cheng until he was confronted with evidence to the contrary, or at all. These statements concealed the truth, which was that Cheng informed Rothstein of generally

undisclosed material facts, and that Cheng suggested to Rothstein that he inform others about generally undisclosed material facts.

35. Cheng's conduct in making misleading statements to Staff was a breach of paragraph 122(1)(a) of the Act.

Cheng Informs Rothstein about Summons and Examination

36. At the commencement and end of the Examination, Cheng acknowledged that he understood the confidentiality of Staff's investigative process under section 16 of the Act. However, despite acknowledging his understanding, Cheng disclosed the nature and content of his compelled examination to Rothstein.

37. Shortly after the Examination, Cheng asked Rothstein to join him for a meeting in the PATH at or around King and Bay Streets in Toronto. Cheng informed Rothstein that he had been examined by Staff. Cheng learned from Rothstein that Rothstein was to be examined by Staff but that he had not yet been examined. Both knew or understood that the examinations concerned or were to concern Amaya. Cheng told Rothstein that the main focus of Staff's questions at his own Examination had been testimony by Killeen. Cheng and Rothstein discussed that there had been significant public information concerning a potential Amaya transaction before the formal announcement of the Acquisition on June 12, 2014. Cheng told Rothstein that this was a plausible explanation for Rothstein's trading in Amaya.

38. Approximately a week or two later, Cheng was in line for a coffee at Tim Horton's in the PATH when he saw Rothstein eating a bagel and drinking a coffee. Cheng joined Rothstein and they discussed a number of matters, including Rothstein's examination with the Commission. Cheng cannot recall whether Rothstein had been examined already by the time of this second meeting.

39. At some point after Cheng's Examination but before Tremblay's examination with Staff on June 16, 2016, Cheng telephoned Tremblay. Cheng told Tremblay that he had been examined by Staff and that a "bald friend" was the source of some evidence that arose in the Examination. Tremblay was unsure who Cheng meant and Cheng did not clarify that he was referring to Killeen. Tremblay said that it was in his and Cheng's best interest to end the conversation. Cheng agreed. The conversation ended.

40. Cheng's disclosures to Rothstein and Tremblay concerning the nature and/or content of the summons he received and Staff's confidential investigation were contrary to section 16 of the Act.

PART IV – BREACHES OF THE ACT AND CONDUCT CONTRARY TO ONTARIO SECURITIES LAW

41. By engaging in the conduct described above, the Respondent admits and acknowledges that he breached Ontario securities law by contravening section 16, subsection 76(2) and paragraph 122(1)(a) of the Act and that his actions were contrary to the public interest.

PART V – STAFF AND RESPONDENT'S POSITIONS

42. Staff note that in agreeing to the terms set out below, the Respondent has been granted substantial credit for cooperation, including the undertaking (the "Undertaking") to cooperate in the future in the form attached in Annex I to the Order at Schedule A to this Settlement Agreement. Staff do not object to the mitigating circumstances set out by the Respondent below.

43. The Respondent requests that the Settlement Hearing panel consider the following mitigating circumstances:

(a) **Dependants.** The Respondent supports his family financially, which includes two school-aged children. His wife is not presently employed.

(b) **No prior record.** The Respondent has no prior record of breaching Ontario securities law (or criminal offences).

(c) **Acted to placate a customer.** The Respondent conveyed the material facts to Rothstein noted above in order to placate Soave. Soave had threatened to pull business from AHF/AHAMI if he did not receive something of value as compensation. Cheng regrets his decision.

(d) **No trading or profit.** The Respondent did not trade in any of his personal accounts on material non-public information nor did he profit from any such trading.

(e) **Career consequences.** As a result of this investigation, the Respondent lost his positions with AHF and AHAMI, now called LOGIQ. He has not worked in the Canadian securities industry since September 2016. He

has agreed to a significant ban from the industry. The publicity that is expected to follow from this settlement will likely make it very difficult for him to find work in Canada.

(f) **Testimony.** Cheng has agreed to cooperate with Staff and provide testimony at the merits hearing in this proceeding.

PART VI – TERMS OF SETTLEMENT

44. The Respondent agrees to the terms of settlement set forth below. Subject to the Commission's approval of the Settlement Agreement, and prior to the Settlement Hearing seeking that approval, Cheng shall pay to the Commission the sum of $400,000.00 by bank draft or certified cheque in satisfaction of the administrative penalty and costs described in subparagraphs 45(k) and (l), below. For greater certainty, if the settlement is not approved by the Commission, that sum shall be returned to Cheng forthwith.

45. The Respondent consents to the Order, pursuant to which it is ordered that:

(a) the Settlement Agreement is approved;

(b) the Respondent is prohibited from trading in any securities or derivatives and from acquiring any securities for a period of 6 years from the date of the Order, pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act;

(c) any exemptions contained in Ontario securities law shall not apply to the Respondent for a period of 6 years from the date of the Order, pursuant to paragraph 3 of subsection 127(1) of the Act;

(d) the Respondent shall resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;

(e) the Respondent is prohibited from becoming or acting as a director or officer of any issuer for a period of 6 years from the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;

(f) the Respondent shall resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

(g) the Respondent is prohibited from becoming or acting as a director or officer of a registrant for a period of 6 years from the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

(h) the Respondent shall resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;

(i) the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 6 years from the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;

(j) the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of 6 years from the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

(k) the Respondent shall pay an administrative penalty in the amount of $350,000.00, pursuant to paragraph 9 of subsection 127(1) of the Act, which 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;

(l) the Respondent shall pay costs of the investigation in the amount of $50,000, pursuant to section 127.1 of the Act;

(m) notwithstanding any other provision contained in the Order, the Respondent is permitted to:

(i) personally trade and/or acquire mutual funds, Exchange Traded Funds, government bonds and/or Guaranteed Investment Certificates for the account of any Registered Retirement Savings Plan ("RRSP"), Registered Retirement Income Fund ("RRIF"), Registered Education Savings Plan ("RESP") and Tax Free Savings Account ("TFSA"), as defined in the *Income Tax Act*, R.S.C. 1985, c.1, as amended, in which he and/or his children and/or his spouse have sole legal and beneficial ownership, solely through a registered dealer in Ontario, to whom Cheng must have given a copy of the Order;

(ii) retain the services of one or more independent, arms-length dealer/portfolio manager(s) who are registered in accordance with Ontario securities law, to trade and/or acquire securities in any RRSP, RRIF, RESP and/or TFSA, on Cheng's behalf, provided that:

(1) the respective dealer/portfolio manager(s) is provided with a copy of the Order prior to trading or acquiring securities on Cheng's behalf;

(2) the respective dealer/portfolio manager(s) has sole discretion over what trades and acquisitions may be made in the account and Cheng has no direction or control over the selection of specific securities;

(3) Cheng is permitted to have annual discussions with the respective registered dealer/portfolio manager(s) for the sole purpose of Cheng providing information regarding general investment objectives, suitability and risk tolerance or as required under Ontario securities law; and

(4) Cheng may change registered dealer/portfolio manager(s), subject to the conditions set out above, with notice to the Commission of any such change to be filed by Cheng within 30 days of making such change; and

(iii) within 60 days from the date of the Order, and with notice to the Commission, dispose of such securities which are not held in Cheng's RRSP, RRIF, RESP and/or TFSA as described in (i) above or otherwise transfer management of any such securities to a discretionary account as described in (ii) above.

46. The Respondent has given the Undertaking to the Commission in the form attached as Annex I to the Order attached as Schedule "A" to this Settlement Agreement, which Undertaking includes an undertaking to cooperate with Staff in its investigation, including testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out herein, and meeting with Staff in advance of that proceeding to prepare for that testimony.

47. The Respondent further consents to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in paragraph 45 above, other than subparagraphs 45(a), (k) and (l). These sanctions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

48. The Respondent acknowledges that this Settlement Agreement and Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of certain 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-related activities, prior to undertaking such activities.

PART VII – FURTHER PROCEEDINGS

49. If the Commission approves this Settlement Agreement, Staff will not commence or continue any other proceeding under Ontario securities law against the Respondent based on the misconduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any terms in this Settlement Agreement or the Undertaking. In that 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 or Undertaking.

50. Cheng acknowledges that, if the Commission approves this Settlement Agreement and Cheng fails to comply with any term in it or in the Undertaking, the Commission is entitled to bring any proceedings necessary.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

51. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which will be held on a date to be determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's *Rules of Procedure*, (2017) 40 O.S.C.B. 8988.

52. The Respondent agrees to attend in person at the Settlement Hearing.

53. 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.

54. If the Commission approves this Settlement Agreement:

    (a) the Respondent 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.

55. If the Commission approves this Settlement Agreement, Staff and the Respondent will consent to the dismissal (or, if not possible, the discontinuance), without costs, of the pending proceedings between Staff and the Respondent in the Divisional Court bearing court file numbers 100/08 and 109/18.

56. 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 IX – DISCLOSURE OF SETTLEMENT AGREEMENT

57. If the Commission does not approve this Settlement Agreement or 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;

    (b) the Settlement Payment shall be returned to Cheng forthwith; and

    (c) 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 Amended Statement of Allegations in respect of this 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.

58. 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 X – EXECUTION OF SETTLEMENT AGREEMENT

59. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

60. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated at Toronto, Ontario this "12th" day of June, 2018.

"Shara Roy"
Witness (print name):

"Benedict Cheng"
Benedict Cheng

Dated at Toronto, Ontario, this 12th day of June, 2018.

STAFF OF THE ONTARIO SECURITIES COMMISSION

By: *"Jeff Kehoe"*
Jeff Kehoe
Director, Enforcement Branch

SCHEDULE "A"

IN THE MATTER OF
BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN AND
ERIC TREMBLAY

[INSERT COMMISSIONERS OF THE PANEL]

___, 2018

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

WHEREAS on ___, 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 an application made jointly by Benedict Cheng (**Cheng** or the **Respondent**) and Staff of the Commission for approval of a settlement agreement dated ____, 2018 (the **Settlement Agreement**);

ON READING the Amended Statement of Allegations dated October 26, 2017 and the Joint Application Record for a Settlement Hearing, including the Settlement Agreement (**Agreement**) and Undertaking of the Respondent (attached as Annex I to this Order);

AND ON HEARING the submissions of counsel Staff and the Respondent, and considering that the $350,000 administrative penalty and $50,000 for costs payable by the Respondent has been received by the Commission in accordance with the terms of the Agreement;

IT IS ORDERED THAT:

1. the Agreement is approved;

2. the Respondent is prohibited from trading in any securities or derivatives and from acquiring any securities for a period of 6 years from the date of the Order, pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act;

3. any exemptions contained in Ontario securities law shall not apply to the Respondent for a period of 6 years from the date of the Order, pursuant to paragraph 3 of subsection 127(1) of the Act;

4. the Respondent shall resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;

5. the Respondent is prohibited from becoming or acting as a director or officer of any issuer for a period of 6 years from the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;

6. the Respondent shall resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

7. the Respondent is prohibited from becoming or acting as a director or officer of a registrant for a period of 6 years from the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

8. the Respondent shall resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;

9. the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of 6 years from the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;

10. the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of 6 years from the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

11. the Respondent shall pay an administrative penalty in the amount of $350,000.00, pursuant to paragraph 9 of subsection 127(1) of the Act, which 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;

12. the Respondent shall pay costs of the investigation in the amount of $50,000, pursuant to section 127.1 of the Act;

13. notwithstanding any other provision contained in the Order, the Respondent is permitted to:

    a. personally trade and/or acquire mutual funds, Exchange Traded Funds, government bonds and/or Guaranteed Investment Certificates for the account of any Registered Retirement Savings Plan ("RRSP"), Registered Retirement Income Fund ("RRIF"), Registered Education Savings Plan ("RESP") and Tax Free Savings Account ("TFSA"), as defined in the *Income Tax Act*, R.S.C. 1985, c.1, as amended, in which he and/or his children and/or his spouse have sole legal and beneficial ownership, solely through a registered dealer in Ontario, to whom Cheng must have given a copy of the Order;

    b. retain the services of one or more independent, arms-length dealer/portfolio manager(s) who are registered in accordance with Ontario securities law, to trade and/or acquire securities in any RRSP, RRIF, RESP and/or TFSA, on Cheng's behalf, provided that:

        i. the respective dealer/portfolio manager(s) is provided with a copy of the Order prior to trading or acquiring securities on Cheng's behalf;

        ii. the respective dealer/portfolio manager(s) has sole discretion over what trades and acquisitions may be made in the account and Cheng has no direction or control over the selection of specific securities;

        iii. Cheng is permitted to have annual discussions with the respective registered dealer/portfolio manager(s) for the sole purpose of Cheng providing information regarding general investment objectives, suitability and risk tolerance or as required under Ontario securities law; and

        iv. Cheng may change registered dealer/portfolio manager(s), subject to the conditions set out above, with notice to the Commission of any such change to be filed by Cheng within 30 days of making such change; and

    c. within 60 days from the date of the Order, and with notice to the Commission, dispose of such securities which are not held in Cheng's RRSP, RRIF, RESP and/or TFSA as described in subparagraph 13(a) above or otherwise transfer management of any such securities to a discretionary account as described in subparagraph 13(b) above.

ANNEX I TO ORDER

I, BENEDICT CHENG, hereby undertake to cooperate with Staff ("Staff") of the Ontario Securities Commission (the "Commission") in its investigation into illegal insider trading and tipping in securities of Amaya Gaming Group Inc., including, if required, testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out in my Settlement Agreement with Staff dated June 12, 2018, and meeting with Staff in advance of any such proceeding to prepare for that testimony.

EXECUTED at Toronto, on June 12, 2018.

"Shara Roy"
Witness

"Benedict Cheng"
BENEDICT CHENG

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Peter Volk – ss. 127(1), 127.1

IN THE MATTER OF
PETER VOLK

ORAL REASONS FOR APPROVAL OF A SETTLEMENT
(Subsection 127(1) and 127.1 of the
***Securities Act*, RSO 1990, c S.5)**

Citation: *Volk (Re)*, 2018 ONSEC 31
Date: 2018-06-13
File No.: 2018-27

Hearing:	June 13, 2018	
Decision:	June 13, 2018	
Panel:	Mark J. Sandler	Chair of the Panel
	AnneMarie Ryan	Commissioner
	M. Cecilia Williams	Commissioner
Appearances:	Raphael T. Eghan	For Staff of the Commission
	Kevin Richard	For Peter Volk

ORAL REASONS FOR APPROVAL OF A SETTLEMENT

The following reasons have been prepared for publication in the Ontario securities Commission bulletin, based on the reasons delivered orally in the Hearing, and as edited and approved by the panel, to provide a public record.

[1] This matter concerns the trading in Pacific Rubiales Energy Corporation's debentures by Pacific's General Counsel, Peter Volk, when Pacific was involved in a due diligence process regarding its potential acquisition with two potential purchasers. Pacific is now known as Frontera Energy Corporation.

[2] Commission Staff and Mr. Volk have come to a settlement agreement in relation to the matter. That settlement agreement has been filed with the Commission. Part III of that settlement agreement sets out the agreed facts which I need not repeat in these brief oral reasons.

[3] Based on those agreed facts, we are satisfied (and Mr. Volk admits) that:

a. As Pacific's general counsel, he was the person who supervised Pacific's Insider Trading Policy, which allowed him to self-assess whether he was in possession of material, generally-undisclosed information when contemplating a trade in Pacific's securities. As such, he was in a position of responsibility and trust and was subject to a high professional standard to avoid any appearance of conflicts of interest and any appearance of misuse of confidential information related to Pacific.

b. The prudent course of action as Pacific's general counsel would have been to err on the side of caution given his knowledge of what the parties describe as the "Harbour facts" and the "ALFA facts." The Harbour facts involve a non-binding expression of interest received from Harbour Energy Ltd. on January 8, 2015, the ongoing Harbour due diligence process, and meetings between Harbour and Pacific related to the due diligence. The ALFA facts involve a February 4, 2015 confidentiality agreement entered into between Pacific and ALFA S.A.B. de C.V., which allowed ALFA to have access to non-public Pacific information for the purposes of conducting a due diligence review for the potential acquisition of Pacific by ALFA, although ALFA had not yet commenced its due diligence investigations.

c. Mr. Volk's conduct was contrary to the public interest as he failed to adhere to the high standard of conduct expected of him in the circumstances.

[4] The terms of settlement involve the following:

1. An undertaking entered into by Mr. Volk to the Commission, which includes his undertaking to

   a. make a voluntary payment, at the time of today's hearing, in the amount of $30,000 to be designated for allocation or use by the Commission in accordance with sub clause (i) or (ii) of clause 3.4(2)(b) of the *Securities Act* (the Act[1]);

   b. obtain external legal advice in regard to any and all future trades by Mr. Volk in securities of issuers of which he is an insider, in circumstances where he is required to self-assess at the time of the trade whether he is in possession of material, generally-undisclosed information related to the issuer, for a period of two years from our order approving the settlement agreement; and

   c. successfully complete an educational program as set out in the undertaking within two years of our order approving the settlement agreement, and report his completion to Staff.

2. Mr. Volk be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act; and

3. Mr. Volk pay costs of $10,000 pursuant to s. 127.1 of the Act.

[5] It was further agreed that these costs, together with the $30,000 voluntary payment were to be paid by bank drafts at this hearing, if we approved the settlement agreement.

[6] The Commission is only to disapprove a settlement agreement in exceptional circumstances. This deference is explained, in part, by the high desirability of encouraging settlement agreements between Staff and respondents, and promoting certainty in the industry. In our view, this settlement agreement falls within the range of reasonable dispositions available in the circumstances, and most importantly, is in the public interest. In particular, it appropriately addresses both general and specific deterrence, and takes into consideration a number of mitigating factors identified in the settlement agreement. These include, but are not limited to the following:

a. Mr. Volk made a good faith decision not to impose a blackout at the material time based on his assessment of materiality, and held a good faith belief that he did not have material undisclosed information at the purchase date. The latter point is reinforced by the fact that Mr. Volk, as general counsel, was not only responsible for self-assessing his own trades, but also the trades of all insiders. Between the end of one blackout in November 2014 and the commencement of another in March 2015, a number of trades were proposed and executed by insiders after assessment by Mr. Volk. In all cases, he was of the opinion that no material, undisclosed information existed at the time of the trades, an assessment that he applied to his own subject trades as well. Accepting, as urged upon us, that Mr. Volk acted in good faith, he nonetheless was seriously mistaken about what he should have done in the circumstances, given his position of high responsibility and trust and the professional standards applicable to him, described earlier;

b. He cooperated with Staff, and previously enjoyed an excellent regulatory reputation; and

c. Mr. Volk earned no profit from his trading activities in the subject Notes and in fact lost almost the entire value of the Notes due to Pacific entering *Companies' Creditors Arrangement Act* proceedings;

[7] For these reasons, we approve of the settlement agreement in the terms proposed by the parties.

[8] Mr. Volk, as Pacific's general counsel, you are in a position of high responsibility and trust. You are subject, as you know, to a high professional standard to avoid any appearance of conflicts of interest and any appearance of misuse of confidential information which you acquire. You failed to adhere to the high standard of conduct expected of you in the circumstances.

[9] Such failures have the potential of undermining confidence in the integrity of our capital markets. Your failure could also have jeopardized the unblemished reputation which you have acquired over many years. We expect that this experience has served, among other things to reinforce for you the seriousness of the situation. We expect that you will govern yourself accordingly in the future. In accordance with paragraph 6 of subsection 127(1) of the Act, the Commission hereby reprimands you for the conduct which is the subject matter of this proceeding.

[1] RSO 1900, c S.5.

Dated at Toronto this 13th day of June, 2018

“Mark J. Sandler”

“AnneMarie Ryan”

“M. Cecilia Williams”

3.1.2 Royal Mutual Funds Inc. – ss. 127(1), 127.1

IN THE MATTER OF
ROYAL MUTUAL FUNDS INC.

ORAL REASONS FOR APPROVAL OF A SETTLEMENT
(Subsection 127(1) and 127.1 of the
***Securities Act*, RSO 1990, c S.5)**

Citation: *Royal Mutual Funds Inc. (Re)*, 2018 ONSEC 32
Date: 2018-06-13
File No.: 2018-31

Hearing:	June 13, 2018	
Decision:	June 13, 2018	
Panel:	Janet Leiper	Commissioner and Chair of the Panel
	William J. Furlong	Commissioner
Appearances:	Daniel Bernstein	For Staff of the Commission
	Doug McLeod	For Royal Mutual Funds Inc.

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 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 June 8, 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 Royal Mutual Funds Inc. (**RMFI**).

[3] RMFI is a member of the Mutual Fund Dealers Association of Canada (**MFDA**) and is registered with the Commission as a mutual fund dealer. RMFI is the principal distributor of proprietary funds, including the RBC Portfolio Solutions suite of mutual funds (**RBC PS Funds**) and other proprietary funds (the **RBC Funds**) and a participating dealer of non-proprietary mutual funds (the **Third Party Funds**), which accounts for a small proportion of RMFI's gross sales.

[4] Between November 2011 and October 2016 (the **Material Period**), RMFI provided its representatives ten basis points more in commissions (the **Enhanced Compensation**) for the sale of units of RBC PS Funds than for the sale of units of Third Party Funds , in contravention of section 4.2(1) of National Instrument (**NI**) 81-105 *Mutual Funds Sales Practices*. As a result, RMFI made additional payments to its "Investment & Retirement Planning" (**IRP**) financial planners in the aggregate amount of $24,517,931; at an average of $5,500 per IRP per year.

[5] In addition, RMFI failed to establish, maintain and apply policies and procedures to establish a system of controls and supervision to ensure that it and each individual acting on its behalf complied with subsection 4.2(1) of NI 81-105 in contravention of section 11.1 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

[6] The parties recommend settlement of the proceeding against RMFI on the following terms, which were the subject of a settlement agreement:

a. RMFI is reprimanded pursuant to paragraph 6 of subsection 127(1) of the Act[1];

b. RMFI pay an administrative penalty in the amount of $1,100,000 to the Commission; and

c. RMFI pay costs of the investigation by the Commission in the amount of $20,000.

[1] *Securities Act*, RSO 1990, c S.5

[7] The Panel understands from Staff that the payments to the Commission have been made.

[8] The role of the Panel is to decide whether the proposed settlement agreement as a whole, on the terms presented and agreed to, falls within an acceptable range and should be approved as being in the public interest.[2]

[9] 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. Having regard to the conduct, the mitigating factors and prior regulatory decisions, we have concluded that the proposed settlement is reasonable and appropriate. For the reasons that follow, we will approve this settlement and make the order in the terms it contemplates.

[10] The seriousness of the conduct in this case arises from the $24,517,931 inducement paid to IRP financial planners over the Material Period.

[11] In considering whether it is in the public interest to approve the proposed settlement agreement, we note the following mitigating factors:

a. RMFI asserts that the Enhanced Compensation was intended to encourage the IRPs to recommend the RBC PS Funds in relation to both the RBC Funds and the Third Party Funds, rather than specifically target Third Party Funds which account for a small proportion of RMFI's gross sales;

b. Staff do not allege any harm to clients as a result of investments in the RBC PS Funds during the Material Period;

c. The Enhanced Compensation had no bearing on the fees charged to clients for any of the RBC PS Funds, RBC Funds or Third Party Funds;

d. RMFI cooperated with MFDA and Staff during their investigation;

e. RMFI reported the Enhanced Compensation to Staff of the Commission following inquiries made by MFDA staff into RMFI's compensation practices;

f. Effective October 28, 2016, RMFI eliminated the Enhanced Compensation incentive to its financial planners; and

g. RMFI engaged in an extensive review and testing of its systems of control and supervision, and developed enhanced procedures and controls designed to prevent the reoccurrence of a breach of subsection 4.2(1) of NI 81-105.

[12] This is the fourth settlement agreement to come before the Commission relating to breaches of NI 81-105. While the settlement agreements in *Sentry Investments*, *Mackenzie Financial*, and *1832 Asset Management* focus on breaches of a different section of NI 81-105, the underlying purpose of the instrument remains the same – to ensure that the interests of investors remain uppermost in the actions of participants in the mutual funds industry.[3]

[13] As such, these settlement agreements assist us in deciding whether the proposed settlement agreement falls within an acceptable range and should be approved as being in the public interest. By focusing on the duration of the misconduct, the amount of the inducement paid, and the mitigating factors in particular, we conclude that the administrative penalty proposed in the settlement agreement falls within an acceptable range.

[14] While the duration of the misconduct of RMFI was similar to *Sentry* and *1832*, the amount of inducement paid by RMFI as part of the Enhanced Compensation incentive was higher than in these cases. However, a significant mitigating factor specific to this case is that the Enhanced Compensation was advantageous relative to both the RBC Funds and the Third Party Funds, the latter of which accounted for only a small proportion of RMFI's gross sales. This provides evidence that the intention of Enhanced Compensation was not predatory towards the Third Party Funds, but rather an incentive to recommend the RBC PS Funds. Indeed the substantial majority of the effect of the Enhanced Compensation would be borne by the RBC Funds for which RMFI is a principal distributor, not a participating dealer.

[15] Further, an administrative penalty in excess of $1,000,000 is appropriate and serves as a meaningful deterrent given the role of RMFI in the marketplace and the significant amount of inducement.

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2 *Rankin (Re)* (2008), 31 OSCB 3303; 2008 ONSEC 6 at para 18.

3 Companion Policy 81-105CP to NI 81-105, Part 2.2(1) and 2.2(2)(a).

[16] Staff's costs submissions of $20,000 reflect the fact that this settlement has saved the expense of a full hearing.

[17] For the reason provided, it is in the public interest for the Panel to approve the settlement agreement and make an order as requested by the parties.

[18] The order to be made today includes a reprimand of RMFI. To the representative of RMFI who is here today, Mr. Walker, this is a symbolic reprimand given that it is being issued against the company. Your presence here today allows the Panel to convey to RMFI the importance of these matters. We trust that RMFI, through its l directors, officers, and employees accepts the reprimand on that basis, and will continue make comprehensive, effective and sustained efforts to avoid a recurrence.

Approved by the Panel on this 13th day of June, 2018.

"Janet Leiper"

"William J. Furlong"

3.1.3 Wayne Loderick Bennett – ss. 127(1), 127(10)

IN THE MATTER OF
WAYNE LODERICK BENNETT

REASONS AND DECISION
(Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5)

Citation: *Bennett (Re)*, 2018 ONSEC 30
Date: June 13, 2018
File No.: 2018-24

Hearing:	In Writing	
Decision:	June 13, 2018	
Panel:	Robert P. Hutchison	Commissioner
Appearances:	Christina Galbraith	For Staff of the Commission
		No submission was made by or on behalf of Wayne Loderick Bennett

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REASONS AND DECISION

I. INTRODUCTION

[1] On July 21, 2017, Wayne Loderick Bennett (the **Respondent**) and staff of the Alberta Securities Commission (the **ASC**) entered into an Agreed Statement of Facts and Admissions (the **Agreed Statement**). In the Agreed Statement, the Respondent admitted to breaches of the Alberta *Securities Act*, RSA 2000 c S-4 (the **Alberta Act**).[1]

[2] In August 2017, the ASC held a hearing to consider whether the Respondent was liable for the conduct described in the Agreed Statement and, if so, what sanctions were appropriate. In a decision made on November 22, 2017 (the **ASC Decision**), the ASC panel held that the Respondent engaged in an illegal distribution of securities contrary to section 110 of the Alberta Act, and made misrepresentations and prohibited statements to investors contrary to subsection 92(4.1) and paragraph 92(3)(b) of the Alberta Act. The ASC panel imposed a requirement to resign as a director or officer of any issuer, registrant and other specified market participants and organizations, permanent market-access bans, a $50,000 administrative penalty, and $30,000 in costs.[2]

1 *Bennett (Re)*, 2017 ABASC 177 at para 2.
2 *Bennett (Re)*, 2017 ABASC 177 at paras 4, 36.

[3] In light of the findings and sanctions of the ASC, staff of the Ontario Securities Commission (**Staff** or the **Commission**) requests that a protective order be issued in the public interest pursuant to subsection 127(1) and pursuant to the inter-jurisdictional enforcement provisions in subsection 127(10) of the Ontario *Securities Act*, RSO 1990, s S.5 (the **Act**).

II. SERVICE AND PARTICIPATION

[4] Staff brought this proceeding under the expedited procedure provided in Rule 11(3) of the Commission's *Rules of Procedure*.[3]

[5] The Respondent was served with the Notice of Hearing issued on May 2, 2018, the Statement of Allegations dated May 1, 2018 and Staff's written submissions, hearing brief and brief of authorities.

[6] Although he was served, the Respondent did not respond or make any submissions in this proceeding.

[7] The Commission may proceed in the absence of a party where that party has been given notice of the hearing.[4]

III. ASC FINDINGS AND SANCTIONS

A. General Background

[8] The Respondent was the founder, president, sole director and guiding mind of Environmental Sentry Services Inc., also known as Environmental Sentry Services, Inc. (**ESSI**) until he resigned his positions in early 2016.[5]

[9] ESSI was a federally incorporated Canadian corporation in the business of manufacturing and distributing hydrocarbon remediation products that aid in the recovery of petroleum spills.[6]

B. Breach of Section 110 of the Alberta Act

[10] The ASC panel found that, between September 8, 2010 and September 8, 2016 (the **Material Time**), the Respondent directly and indirectly raised approximately $3.8 million for ESSI by distributing common shares and debentures of ESSI to at least 100 investors in Alberta and Ontario.[7] The Respondent was not registered with the ASC in any capacity and ESSI had never filed a prospectus or offering memorandum with the ASC during the Material Time.[8]

[11] The capital raised for ESSI was purportedly raised in reliance on exemptions under sections 2.3 and 2.5 of National Instrument 45-106 – *Prospectus and Registration Exemptions* (now known as National Instrument 45-106 – *Prospectus Exemptions*). However, the ASC panel found that many investors did not qualify for these exemptions.[9]

[12] The Respondent admitted to illegally distributing ESSI securities without a prospectus and without any apparent attempt to ensure that these prospectus exemptions were available.[10] Accordingly, the ASC panel held that the Respondent engaged in an illegal distribution of securities contrary to section 110 of the Alberta Act.[11]

C. Breach of Subsection 92(4.1) of the Alberta Act

[13] The Respondent admitted to representing in ESSI promotional materials that ESSI held various patents and patents pending for its products, when in fact it did not.[12] The ASC panel found that the Respondent's representations were either untrue or misleading[13] and that these representations were material and would reasonably have been expected to have a significant effect on the market price or value of ESSI securities.[14]

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3 *Ontario Securities Commission Rules of Procedure and Forms* (2017), 40 OSCB 8988 (the ***Rules of Procedure***).
4 *Statutory Powers Procedure Act,* RSO 1990 c S.22, s 7(2); *Rules of Procedure*, r 21(3).
5 *Bennett (Re)*, 2017 ABASC 177 at para 6.
6 *Bennett (Re)*, 2017 ABASC 177 at para 7.
7 *Bennett (Re)*, 2017 ABASC 177 at paras 8, 51.
8 *Bennett (Re)*, 2017 ABASC 177 at paras 8, 53.
9 *Bennett (Re)*, 2017 ABASC 177 at paras 9, 10 and 22.
10 *Bennett (Re)*, 2017 ABASC 177 at para 22.
11 *Bennett (Re)*, 2017 ABASC 177 at para 23.
12 *Bennett (Re)*, 2017 ABASC 177 at paras 12, 15.
13 *Bennett (Re)*, 2017 ABASC 177 at paras 27-28.
14 *Bennett (Re)*, 2017 ABASC 177 at para 29, 52.

[14] As a result, the ASC panel held that the Respondent made misleading statements to investors contrary to section 92(4.1) of the Alberta Act.[15]

D. Breach of Paragraph 92(3)(b) of the Alberta Act

[15] The Respondent also admitted to telling prospective investors that ESSI would be going public and would be listed on the Toronto Stock Exchange. However, neither he nor ESSI had received permission from the ASC or approval from any exchange to list ESSI securities.[16]

[16] Accordingly, the ASC panel held that the Respondent made prohibited statements to investors in respect of ESSI securities contrary to section 92(3)(b) of the Alberta Act.[17]

E. ASC Sanctions

[17] The ASC panel imposed sanctions to the following effect:

a. pursuant to subparagraph 198(1)(d) of the Alberta Act, the Respondent was required to resign all positions he held as a director or officer (or both) of any issuer, registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository or recognized quotation and trade reporting system;

b. pursuant to paragraphs 198(1)(b) and (c) of the Alberta Act, the Respondent was permanently prohibited from trading in or purchasing securities or derivatives, and was prohibited from relying on all of the exemptions contained in Alberta securities laws, except that he was not precluded from trading in or purchasing securities or derivatives through a registrant (who has first been given a copy of the ASC Decision and the Agreed Statement) in one registered retirement savings plan, one registered retirement income fund, one tax-free savings account (as defined in the *Income Tax Act* (Canada)) and one locked-in retirement account, each for the benefit of one or more of the Respondent and his spouse;

c. pursuant to paragraphs 198(1)(c.1), (e.1), (e.2) and (e.3) of the Alberta Act, the Respondent was permanently prohibited from engaging in investor relations activities, from advising in securities or derivatives, from becoming or acting as a registrant, investment fund manager or promoter, and from acting in a management or consultative capacity in connection with activities in the securities market;

d. pursuant to paragraph 198(1)(e) of the Alberta Act, the Respondent was permanently prohibited from becoming or acting as a director or officer (or both) of any issuer (or other person or company that is authorized to issue securities), registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository or recognized quotation and trade reporting system;

e. pursuant to section 199 of the Alberta Act, the Respondent was required to pay an administrative penalty of $50,000; and

f. pursuant to section 202 of the Alberta Act, the Respondent was required to pay $30,000 in costs.[18]

IV. ANALYSIS AND DECISION

[18] Staff seek an order pursuant to subsections 127(10) and (1) of the Act imposing trading and market-access bans that substantially mirror those imposed by the ASC.

[19] The issues for this Panel to consider are:

a. whether one or more of the circumstances under subsection 127(10) of the Act apply to the Respondent; and, if so,

b. whether the Commission should exercise its public interest jurisdiction to make an order pursuant to subsection 127(1) of the Act.

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15 *Bennett (Re)*, 2017 ABASC 177 at para 30.

16 *Bennett (Re)*, 2017 ABASC 177 at paras 16, 34 and 52.

17 *Bennett (Re)*, 2017 ABASC 177 at para 34.

18 *Bennett (Re)*, 2017 ABASC 177 at para 76.

A. Subsection 127(10) of the Act

[20] Subsection 127(10) of the Act does not itself empower the Commission to make an order; rather, it provides a basis for an order under subsection 127(1). This provision facilitates the cross-jurisdictional enforcement of decisions by allowing the Commission to issue protective, preventive and prospective orders to ensure that misconduct that has taken place in another jurisdiction will not be repeated in Ontario's capital markets.

[21] Paragraph 127(10)(4) provides for inter-jurisdictional enforcement where a person or company is subject to an order made by a securities regulatory authority that imposes sanctions, conditions or requirements on the person or company.

[22] The Respondent is subject to an order made by the ASC that imposes sanctions, conditions, restrictions or requirements upon him. Accordingly, the threshold set out in paragraph 4 of subsection 127(10) is met.

B. Subsection 127(1) of the Act

[23] Because the threshold has been met under paragraph 4 of subsection 127(10) of the Act, the Panel must also determine what sanctions, if any, should be ordered against the Respondent pursuant to subsection 127(1).

[24] Subsection 127(1) empowers the Commission to make orders where it is in the public interest to do so. The Commission is not required to make an order similar to that made by the originating jurisdiction. Rather, the Panel must first satisfy itself that an order for sanctions is necessary to protect the public interest in Ontario and then consider what the appropriate sanctions should be.

[25] Orders made under subsection 127(1) of the Act are "protective and preventive"[19] and are made to restrain potential conduct which could be detrimental to the public interest in fair and efficient capital markets.[20]

[26] The Commission must make its own determination of what is in the public interest. It is also important that the Commission be aware of and responsive to an interconnected, inter-provincial securities industry. The threshold for reciprocity is low. A low threshold is supported by the principle found in section 2.1 of the Act, which provides that "[t]he integration of capital markets is supported and promoted by the sound and responsible harmonization and co-ordination of securities regulation regimes."

[27] While an Ontario connection is not a pre-condition to exercising the Commission's jurisdiction to make an order under subsections 127(10) and (1), it is a factor that may be considered.[21] The Respondent's conduct involved making illegal distributions of securities investors in both Alberta and Ontario during the Material Time.[22] These illegal distributions would have also constituted a breach of the Act in Ontario. This conduct, combined with the misrepresentations and prohibited statements made to investors, would clearly be contrary to the public interest and would attract the same or similar sanctions in Ontario.

[28] Accordingly, an order for sanctions is necessary to protect the public interest in Ontario.

[29] In determining the nature and scope of sanctions to be ordered, the Commission can consider a number of factors, including the seriousness of the misconduct and the need to deter a respondent, and other like-minded persons, from engaging in similar abuses of the capital markets in the future.[23]

[30] Although ASC staff only requested 12-year market-access bans against the Respondent,[24] the ASC panel found that in light of the seriousness of the Respondent's misconduct, the harm done to investors, and the Respondent's little or no regard for Alberta securities laws, the public interest required permanent market-access bans.[25]

[31] During the Material Time, the Respondent illegally raised almost $4 million from investors in Alberta and Ontario, and there is no indication of a potential recovery of their investments. The Respondent knowingly made false or misleading statements to prospective investors, which led investors to make ill-informed investment decisions without the ability to properly assess the risks involved.[26] While the ASC panel acknowledged that the Respondent accepted responsibility

19 *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at para 42.

20 *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at para 43.

21 *Biller (Re)* (2005), 28 OSCB 10131, 2005 ONSEC 15 at paras 32-35.

22 *Bennett (Re)*, 2017 ABASC 177 at paras 8, 51.

23 *Belteco Holdings Inc (Re)* (1998), 21 OSCB 7743 at paras 23-25; *MCJC Holdings* (2002), 25 OSCB 1133 at paras 25-26.

24 *Bennett (Re)*, 2017 ABASC 177 at para 39.

25 *Bennett (Re)*, 2017 ABASC 177 at para 67.

26 *Bennett (Re)*, 2017 ABASC 177 at paras 51-52.

for his misconduct, the panel determined that his cooperation fell short of the kind expected from a respondent who has fully accepted responsibility for contravening Alberta securities laws.[27]

[32] These findings support the making of an interjurisdictional order in substantially the form requested by Staff, which includes permanent market-access bans. In this way, the Ontario markets will be protected from this Respondent, and the Respondent and like-minded persons will be deterred from engaging in similar abuses in the future.

V. CONCLUSION

[33] For the reasons provided above, the following Order will issue:

a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in securities or derivatives by the Respondent cease permanently, except that this order does not preclude the Respondent from trading in securities or derivatives through a registrant (who has first been given copies of the ASC Decision, the Agreed Statement, and a copy of the order in this proceeding), in one registered retirement savings plan, one registered retirement income fund, one tax-free savings account (as defined in the *Income Tax Act* (Canada)) and one locked-in retirement account, each for the benefit of one or more of the Respondent and his spouse;

b. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by the Respondent cease permanently, except that this order does not preclude the Respondent from purchasing securities through a registrant (who has first been given copies of the ASC Decision, the Agreed Statement, and a copy of the order in this proceeding), in one registered retirement savings plan, one registered retirement income fund, one tax-free savings account (as defined in the *Income Tax Act* (Canada)) and one locked-in retirement account, each for the benefit of one or more of the Respondent and his spouse;

c. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to the Respondent permanently;

d. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, the Respondent resign any positions that he holds as a director or officer of any issuer, registrant or investment fund manager;

e. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, the Respondent be prohibited permanently from becoming or acting as a director or officer of any issuer, registrant or investment fund manager; and

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

Dated at Toronto this 13th day of June, 2018.

"Robert P. Hutchison"

[27] *Bennett (Re)*, 2017 ABASC 177 at para 64.

3.1.4 Clayton Smith – ss. 127(1), 127.1(1)

IN THE MATTER OF
CLAYTON SMITH

ORAL REASONS FOR APPROVAL OF SETTLEMENT
(Subsections 127(1) and 127.1(1) of the
***Securities Act*, RSO 1990, c S.5)**

Citation: *Clayton Smith (Re)*, 2018 ONSEC 33
Date: 2018-06-14
File No.: 2018-35

Hearing:	June 13, 2018	
Decision:	June 14, 2018	
Panel:	Janet Leiper	Commissioner and Chair of the Panel
	Philip Anisman	Commissioner
	Frances Kordyback	Commissioner
Appearances:	Anna Huculak	For Staff of the Commission
	Clayton Smith	Appearing on his own behalf
Hearing:	June 13, 2018	

ORAL REASONS FOR APPROVAL OF SETTLEMENT

The following reasons have been prepared for publication in the Ontario Securities Commission Bulletin, based on the reasons delivered orally at the hearing, and as edited, with footnotes, and approved by the Panel, to provide a public record.

[1] The Settlement Agreement dated May 28, 2018 (**Settlement Agreement**) between enforcement staff (**Staff**) of the Ontario Securities Commission (the **Commission**) and Clayton Smith (**Smith**), submitted for approval in this settlement hearing, provides an illustration of the potential for abuse when unchecked authority is conferred on a single individual.

I. SMITH'S CONDUCT

[2] The conduct admitted by Smith in the Settlement Agreement demonstrates a conscious disregard by Smith and Crystal Wealth Management System Limited (**Crystal Wealth**), under Smith's direction, of their fiduciary responsibilities to, and their obligations to act honestly, in good faith and in the best interests of, mutual funds they managed and clients who invested in those funds.

[3] Smith was the founder of Crystal Wealth and as its president, CEO, CFO, CCO, UDP, sole officer and director and indirect controlling shareholder, was its directing mind.[1] He controlled Crystal Wealth through a series of holding companies of which he was the only officer and director; he was the sole shareholder of CLJ Everest Ltd. (**CLJ Everest**), which owned all the voting shares of 1150752 Ontario Limited (**115 Limited**), which in turn owned a majority of Crystal Wealth's outstanding shares.[2]

[4] Crystal Wealth was the creator, promoter and trustee and the registered investment fund manager (**IFM**) and portfolio manager of fifteen mutual funds (the **Crystal Wealth Funds**) that distributed their securities on a prospectus-exempt basis.[3] Smith was registered as a portfolio manager and advising representative, was the lead portfolio manager for at least one of the Crystal Wealth Funds, Crystal Wealth Media Strategy (the **Media Fund**), and advised a number of Crystal Wealth's 1,250 clients who had discretionary managed accounts, many of whom were invested in various Crystal Wealth Funds.[4]

[5] Over a period of approximately five years, from April, 2012 to April, 2017 (the **Material Time**), Smith misappropriated significant amounts of money from two of the Crystal Wealth Funds, Crystal Wealth Mortgage Strategy (the **Mortgage Fund**) and the Media Fund, by causing payments to be made, directly and indirectly, to himself, his wholly-owned

1 Settlement Agreement at paras 6 and 16. These reasons adopt the definitions used in the Settlement Agreement.
2 Settlement Agreement at para 18.
3 Settlement Agreement at paras 6 and 11-13.
4 Settlement Agreement at paras 15, 17 and 35.

corporations and two other corporations that he owned equally with another shareholder and advising representative of Crystal Wealth in one case (**CWMI**) and with his former common law wife in the other (**Chrysalis**).[5] A brief description demonstrates the nature of this fraudulent conduct.

a. Mortgage Fund

[6] Smith caused the Mortgage Fund to make six payments totalling approximately $894,932 to 115 Limited. He subsequently told the Mortgage Fund's auditors that the Mortgage Fund held interests in mortgages corresponding to the amounts of these payments (the **Purported Mortgage Investments**) that were obtained through "MBS Partners", the registered name under which 115 Limited carried on business.[6] These Purported Mortgage Investments were contrary to the Mortgage Fund's offering memorandum, which represented that it would invest in mortgages with independent companies.[7] Moreover, when asked by Staff about MBS Partners on an examination under oath, he said he had no interest in MBS Partners and MBS Partners had no interest in Crystal Wealth; as MBS Partners was 115 Limited, Crystal Wealth's direct controlling shareholder, both statements were lies.[8]

[7] Smith subsequently misappropriated funds from the Media Fund by having it overpay for three film loans and directing the recipients, Media House and its related parties, to transfer the funds to a service provider to purchase the Purported Mortgage Investments from the Mortgage Fund.[9] He thus repaid the Mortgage Fund some or all of the amount he previously misappropriated from it with funds misappropriated from the Media Fund.

[8] Although the Mortgage Fund's offering memorandum stated that it would invest primarily in residential mortgages, Smith caused it to purchase two film loans, which were subsequently sold to the Media Fund. The money paid for one of these loans was substantially returned to Smith amounting to a further misappropriation of approximately $1,575,000.[10]

[9] Smith also caused Crystal Wealth to enter into a financing agreement with MCS to provide financing for energy projects. The same day, he had CLJ Everest enter into an arrangement with MCS under which a monthly consulting fee of 15 per cent of the net free cash flow from all such energy projects would be paid to CLJ Everest for unspecified assistance with "any aspect of MCS's business operations". Smith subsequently had the Mortgage Fund pay $2,000,000 to an MCS affiliate, which was recorded as a loan in the Mortgage Fund's financial statements, $1,750,000 of which was advanced by the MCS affiliate to CLJ Everest and used by it to purchase shares of Crystal Wealth from the other shareholder of CWMI.[11] Smith thus used funds obtained from the Mortgage Fund to increase his indirect share ownership of Crystal Wealth. Smith admits this and the other Mortgage Fund transactions were fraudulent.[12]

b. Media Fund

[10] Although the Media Fund's offering memorandum said that funds would be invested in film loans to independent producers, six such loans were provided to Media House for films produced by corporations controlled by Media House's majority shareholder and sole director.[13] At Smith's direction, approximately $6,990,000 of these loans were transferred to Smith and his corporations[14] and to the Mortgage Fund's service provider to purchase from the Mortgage Fund the Purported Mortgage Investments[15] and other mortgages that were in arrears.[16] This course of conduct, too, was fraudulent.

[11] Smith also arranged for payments that were, in effect, a kickback in connection with the purchase by the Media Fund of certain other film loans from Media House. The contract with Media House provided that Media House was to receive a loan facilitation fee of up to 10 per cent of the face value of these loans. For several of the loans, Media House paid 30 per cent of its loan facilitation fee to CWMI, amounting to approximately $622,780, substantially all of which was paid to Smith and CWMI's other shareholder.[17]

5 Settlement Agreement at paras 19, 20, 28 and 37.
6 Settlement Agreement at paras 18 and 22-23.
7 Settlement Agreement at para 21.
8 Settlement Agreement at paras 18, 23 and 45.
9 Settlement Agreement at para 28(b)(ii).
10 Settlement Agreement at paras 27 and 29.
11 Settlement Agreement at paras 31-33.
12 Settlement Agreement at para 34.
13 Settlement Agreement at paras 24-27.
14 Settlement Agreement at para 28(a).
15 See paragraph 7, above.
16 Settlement Agreement at para 28(b).
17 Settlement Agreement at paras 35-37.

[12] The Settlement Agreement treats this payment separately as a conflict of interest, which Crystal Wealth failed to disclose to investors in the Media Fund contrary to Ontario securities law.[18] In fact, although the Settlement Agreement does not say this, all of the misappropriations described in the Settlement Agreement raised conflicts of interest, disclosure of which would have prevented their accomplishment.[19]

c. Duty to Clients

[13] Finally, during the Material Time, Smith caused clients of Crystal Wealth, whose discretionary accounts he managed, "to be invested in the Mortgage and Media Funds". He admits that in doing so he failed to deal fairly, honestly and in good faith with them, contrary to Ontario securities law.[20]

II. APPROPRIATE SANCTIONS

a. Market Prohibitions

[14] Smith's egregious, admittedly fraudulent conduct in directing and managing the investment funds of clients invested in the Mortgage and Media Funds warrants serious sanctions. The sanctions agreed to in the Settlement Agreement would permanently exclude him from participation in the securities market by prohibiting him from trading in securities or derivatives, from becoming or acting as a registrant or promoter and from acting in any managerial position with an issuer or registrant (including an investment fund manager).[21] These sanctions are clearly appropriate.

b. Disgorgement

[15] In most circumstances, other sanctions would be as well. The Settlement Agreement describes misappropriations from the Mortgage Fund and Media Fund over an extended period totalling approximately $11,832,712.[22] All of these funds were misappropriated through Smith's portfolio management activities on behalf of Crystal Wealth and, as admitted in the Settlement Agreement, were contrary to section 126.1 of the Act or the conflict of interest provisions of NI 31-103.[23] As a result, an order requiring Smith to disgorge all of the funds obtained as a result of these contraventions of Ontario securities law would usually be appropriate. The Settlement Agreement does not provide for one.

[16] The Settlement Agreement states, however, that a receiver and manager has been appointed under section 129 of the Act over the assets of Crystal Wealth, the Crystal Wealth Funds, CLJ Everest, 115 Limited, Chrysalis' bank account and Smith's personal assets for the benefit of investors in the Crystal Wealth Funds and other creditors of Crystal Wealth.[24]

[17] The implication is that Smith has no remaining assets. The effect of the receiver's appointment is thus equivalent to a disgorgement order applicable to all of Smith's assets with a more direct benefit to Crystal Wealth's investors, whether or not these assets are equal to the misappropriated amounts that would be subject to a disgorgement order (which is not disclosed in the Settlement Agreement). In these circumstances, a disgorgement order, if enforced as a claim by Staff in the receivership, would reduce proportionately the amount that investors may receive. As a result, the fact that the Settlement Agreement does not require disgorgement of the funds obtained by Smith does not take it beyond a reasonable range of appropriate sanctions.[25]

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18 Settlement Agreement at para 38; National Instrument 31-103 - *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, ss 13.4(2) and (3) (**NI 31-103**). The Settlement Agreement does not state that this was fraudulent.

19 See LD Brandeis, *Other People's Money and How the Bankers Use It* (1914, Harper Torchbook Edition, 1967) at62 ("Sunlight is said to be the best of disinfectants; electric light the most efficient policeman").

20 Settlement Agreement at paras 15, 39 and 47(b); OSC Rule 31-505 - *Conditions of Registration*, s 2.1.

21 Investment fund managers are registrants; see *Dhanani (Re)* (2017), 40 OSCB 4457, 2017 ONSEC 15 at para 14.

22 Paragraphs 6 and 8-11, above.

23 NI 31-103, s 13.4. Smith is also responsible for these contraventions as the authorizing director and officer of Crystal Wealth, as he admitted; see Act, s 129.2; Settlement Agreement at paras 34, 38 and 47(a) and (e).

24 Settlement Agreement at paras 48-50. As of May 1, 2018, approximately $30,817,199 had been returned to investors by the receiver. This is significantly less than Crystal Wealth's $193,198,912 assets under management (**AUM**) and the $54,466,843 AUM of the Media Fund as of April 20, 2017, one week before the receiver was appointed; Settlement Agreement at paras 14, 24 and 48.

25 This is so, even though a settlement that required disgorgement of funds obtained from investors where a receiver had been appointed has been approved by the Commission; see *Pogachar (Re)* (2011), 34 OSCB 1048 (order) and 1055 (settlement agreement). The settlement in this case was with the corporate respondents, was agreed to by their receiver acting for them and required allocation of the disgorged funds to specified classes of investors and the distribution of these funds by the receiver.

c. Monetary Administrative Penalty

[18] The agreed sanctions also include a monetary administrative penalty in the amount of $250,000. In the context of Smith's conduct, this amount is arguably insignificant. When the receiver and manager was appointed, the AUM of the Crystal Wealth Funds were $193,198,912, and the Media Fund alone had AUM of approximately $54,466,843. The amounts misappropriated by Smith totalled almost $12,000,000. In light of these amounts and Smith's multiple contraventions, an administrative penalty of $250,000 is inadequate and would not be an appropriate sanction.

[19] Moreover, the Settlement Agreement suggests that the administrative penalty may not be collectible. Like similar settlement agreements, the Settlement Agreement provides that a failure by Smith to comply with the agreed order will entitle Staff to bring proceedings against him based on both the misconduct described in the Settlement Agreement and the breach of the order. Under the Settlement Agreement, however, this provision does not apply to the administrative penalty and costs.[26] As a result, if Smith does not pay the administrative penalty and costs to which he has agreed, the settlement will continue to be binding on Staff, so long as he complies with the market prohibitions in the order. The effect of this exclusion is emphasized by Smith's acknowledgement that a failure to pay will result in his name being added to the list of delinquent respondents that is published by the Commission.[27]

[20] The potential for a proceeding based on the facts admitted in a settlement agreement for a breach of the agreed order encourages compliance with the order, including monetary sanctions, and enhances the deterrent effect of the settlement.[28] The carveout in the Settlement Agreement thus reduces any incentive to comply with the monetary and costs orders and the specific deterrence that it may otherwise accomplish.

[21] The relatively small administrative penalty, when combined with Staff's inability to take proceedings if it is not paid and Smith's acknowledgement, may also diminish the general deterrence of the agreed sanctions and could bring into question the reasonableness of these sanctions.[29] If payment is not expected, it may be preferable not to include an administrative penalty and costs in a settlement agreement.[30] A monetary sanction that is merely symbolic may have a perverse effect and diminish confidence in the Commission's enforcement process. In this case, however, for the following reasons, the sanctions remain within a reasonable range of appropriateness.

d. Public Interest

[22] The fact that a receiver has been appointed over Smith's personal assets does not mean he will never have assets. Smith is capable and enterprising, as is demonstrated by the fact that under his direction, in less than 20 years, Crystal Wealth acquired AUM of almost $200 million and by the complexity of the fraudulent misappropriations described in the Settlement Agreement. It is possible that Smith will acquire funds following the receivership, the conclusion of which will not release him from liability for his debts. Staff will be entitled to register the agreed order in the Superior Court of Justice, after which it will be enforceable as an order of the Court.[31] As such, its enforcement will not be subject to a limitation period.[32] Thus, despite the carveout in the Settlement Agreement, the monetary penalty and costs may be collectible in the long term, if Staff seeks to enforce the order.

[23] In addition, the complexity of the transactions described in the Settlement Agreement indicates that a lengthy hearing will be necessary if the Settlement Agreement is rejected. A hearing would require full proof of the facts agreed to in the Settlement Agreement and, possibly, evidence relating to other transactions not included in it. The Settlement Agreement will thus remove the need to conduct a lengthy hearing and by saving substantial Staff time, will enable Staff to address other enforcement needs.

[24] More significantly, it is not clear that any result obtained after a hearing on the merits would fulfill the Commission's mandate to a substantially greater degree than the agreed order. The market prohibitions will accomplish the direct protective purposes of sanctions under the Act by precluding any activities by Smith relating to the securities market and investors. A failure to comply with them will entitle Staff to bring a proceeding based on all of Smith's admitted

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26 Settlement Agreement at para 56. A carveout like this one is contained in only one prior settlement agreement; see *Kotton (Re)* (2017), 40 OSCB 4855, 2017 LNONOSC 291 at para 100.

27 Settlement Agreement at para 53. Although this provision is common in settlement agreements, its deterrent effect is questionable, and in a case like this one, likely negligible.

28 See, e.g., *Wing (Re)* (2018), 41 OSCB 4365, 2018 ONSEC 25 at para 17 (***Wing***).

29 The fact that one prior settlement agreement contains similar provisions does not, in our view, support the reasonableness of this one.

30 See, e.g., *Sbaraglia (Re)* (2013), 36 OSCB 2572 (order) and 2609 (settlement agreement) at paras 29-30 (settlement of proceeding based on similar conduct; no monetary sanction or costs because receiver appointed over respondent's assets); see also *Marlow (Re)* (2006), 29 OSCB 5217 at paras 5-7.

31 Act, s 151.

32 *Limitations Act, 2002,* SO 2002, c 24, Schedule B, s 16(1)(b); see, e.g., *Independence Plaza 1 Associates, LLC v Figliolini*, 2017 ONCA 44 at para 32.

conduct. In view of the receivership, it is far from clear that any disgorgement order and administrative penalty that might be imposed after a lengthy hearing would accomplish enough to make this Settlement Agreement unreasonable. As a result, the Settlement Agreement embodies adequate specific and general deterrence to bring the agreed sanctions within a reasonable range of appropriateness.[33] For these reasons, approval of the Settlement Agreement is in the public interest and we shall make an order substantially in the form agreed to by Staff and Smith in this hearing.

[25] Approval in this case should not, however, be treated as acceptance of the reasonableness of the carveout in paragraph 56 of the Settlement Agreement[34] or as a precedent for consideration of the parameters of reasonableness in future settlement hearings. Rather, this decision should be limited to its facts, recognizing that a carveout of this nature is inconsistent with the specific and general deterrence that is essential to the prevention sought in Commission sanction orders.[35]

III. ADDITIONAL COMMENTS

a. Reprimand

[26] The Settlement Agreement invites two further comments. First, the agreed order includes a reprimand. Authority to reprimand was granted in 1994 to enable the Commission to sanction registrants and other market participants where another sanction would be too severe.[36] An agreement to be reprimanded may also recognize a respondent's acceptance of responsibility and commitment to future compliance with Ontario securities law.[37] In a case like this one, it may also serve as an attempt to emphasize and bring home to a respondent direct responsibility for his or her abusive conduct.

[27] A reprimand, like other sanctions, must be based on the facts of each case, which determine its utility.[38] In view of the conscious nature and repetition of the wrongdoing described in the Settlement Agreement, a reprimand would appear to add little, if anything, to the prohibitions in the agreed order. If it is perceived as a token sanction, merely a slap on the wrist, it may undermine the effect of reprimands generally. While including it here does not make the settlement unreasonable, it is important to consider in future cases based on similar egregious conduct whether a reprimand serves a useful purpose with respect to an individual respondent.

b. Regulatory Framework

[28] Finally, the conduct described in the Settlement Agreement is indicative of the potential for conflicts of interest in the management of mutual funds. Transactions involving conflicts of interest by mutual funds that are reporting issuers are subject to review by an independent review committee (**IRC**).[39] Although not mentioned by the parties, Smith's management of Crystal Wealth and the Crystal Wealth Funds demonstrates a need for such protection with respect to mutual funds that distribute securities in the exempt market and are not reporting issuers. Had the transactions in this case been subject to IRC review, they might not have occurred.[40] An IRC would at a minimum have made it more difficult for Smith to manage Crystal Wealth and the Crystal Wealth Funds in the manner he did. In view of the amounts of assets under management by mutual funds that are not reporting issuers, the limitation of NI 81-107 to reporting issuers should be reconsidered.

IV. REPRIMAND

[29] Mr. Smith, we acknowledge and recognize your cooperation in settling these matters. As part of the settlement agreement, a reprimand is imposed on you. The Panel notes that this settlement arose from your failure toward your community – a breach of trust that appears to be the product of your willingness to be deceitful and to prefer your own interests over those of others, unlawfully, over a lengthy period of time. You have accepted formal responsibility. There are questions to take away with you, to which only you know the answers. Why did you allow this to happen? Will you serve your community with integrity in the future? Will you resolve to do better? That is yet to be known.

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33 See, e.g.*, Electrovaya (Re)* (2017), 40 OSCB 5795, 2017 ONSEC 25 at paras 5-8; *Wing* at paras 4, 5 and 11.

34 See paragraph 19, above.

35 See *Wing* at para 1.

36 See *Credit Unions and Caisses Populaires Act*, 1994, SO 1994, c 11, s 375; *Proposals to Amend the Enforcement Provisions of the Securities Act* (1991), 14 OSCB 1907 at 1908 (where other sanctions "too great an intrusion"); Borden Ladner Gervais, *Securities Law and Practice* (2013), vol 3, p 22-71, s 22.7.3(b.6).

37 See, e.g., *Sentry (Re)* (2017), 40 OSCB 3435, 2017 ONSEC 7 at paras 14-18; *Wing* at para 18.

38 See *Global RESP Corporation (Re)* (2018), 41 OSCB 4369, 2018 ONSEC 26 at paras 13-15.

39 See National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**).

40 See note 19, above and accompanying text.

Dated at Toronto this 14th day of June, 2018.

“Janet Leiper”

“Philip Anisman”

“Frances Kordyback”

3.1.5 Benedict Cheng et al. – ss. 127(1), 127.1

IN THE MATTER OF
BENEDICT CHENG,
FRANK SOAVE,
JOHN DAVID ROTHSTEIN and
ERIC TREMBLAY

ORAL REASONS FOR APPROVAL OF A SETTLEMENT
(Subsection 127(1) and Section 127.1 of the
***Securities Act*, RSO 1990, c S.5)**

Citation: *Cheng (Re)*, 2018 ONSEC 34
Date: 2018-06-15

Hearing:	June 15, 2018	
Decision:	June 15, 2018	
Panel:	Mark J. Sandler	Commissioner and Chair of the Panel
Appearances:	Yvonne Chisholm Jennifer Lynch Christina Galbraith	For Staff of the Commission
	Shara Roy Patrick Healy	For Benedict Cheng

ORAL REASONS FOR APPROVAL OF A SETTLEMENT

The following reasons have been prepared for publication in the Ontario Securities Commission Bulletin, based on the reasons delivered orally in the Hearing, and as edited and approved by the panel, to provide a public record.

[1] While employed as the Co-Chief Investment Officer and Portfolio Manager of Aston Hill Asset Management Inc. ("**AHAMI**"), Benedict Cheng became aware of generally undisclosed material facts with respect to Amaya Gaming Group Inc. ("**Amaya**"). He was in a special relationship with Amaya based on his knowledge of AHAMI's participation in the financing of a transaction involving Amaya. Mr. Cheng informed John David Rothstein about some of these generally undisclosed material facts. He also suggested to Mr. Rothstein that he convey those material facts to Frank Soave before they were generally disclosed. Mr. Cheng thereby violated subsection 76(2) of the *Securities Act* (the "**Act**") and/or acted contrary to the public interest.

[2] Mr. Cheng's involvement in insider tipping was a serious breach of Ontario securities law. The improper use of insider information leads to unfair advantages for those who use it and can undermine confidence in the integrity and fairness of public markets.

[3] The seriousness of his misconduct was compounded by two other violations of the Act. First, when examined under oath by Staff during its investigation, Mr. Cheng made materially misleading statements, in violation of s. 122(1)(a) of the Act. Second, he disclosed the nature and content of his compelled examination under oath to Mr. Rothstein, despite his understanding of the confidentiality of the investigative process in which he was participating. This constituted a violation of s. 16 of the Act.

[4] Commission Staff and Mr. Cheng reached a settlement agreement in relation to the matter. That settlement agreement has been filed with the Commission. Part III of the agreement sets out the agreed facts, which I need not elaborate upon further in these brief oral reasons.

[5] The terms of settlement involve the following:

a. Mr. Cheng shall be prohibited from trading in any securities or derivatives and from acquiring securities for a period of six years;

b. Any exemptions contained in Ontario securities law shall not apply to Mr. Cheng for a period of six years;

c. Mr. Cheng shall resign any positions that he holds as a director or officer of any issuer, registrant or investment fund manager;

d. Mr. Cheng shall be prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager for a period of six years;

e. Mr. Cheng shall be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of six years; and

f. Mr. Cheng shall pay an administrative penalty in the amount of $350,000 and costs of the investigation in the amount of $50,000.

[6] It was agreed that Mr. Cheng would pay the full $400,000 representing the administrative penalty and the costs of the investigation by bank draft or certified cheque in advance of this hearing. Staff confirmed that he has done so.

[7] It was further agreed that Mr. Cheng would cooperate with Staff in its ongoing investigation into illegal insider activities in securities of Amaya and sign an undertaking to that effect. This cooperation includes testifying as a witness for Staff, if and as required, and meeting with Staff to prepare for that testimony. Mr. Cheng has signed that undertaking.

[8] The Commission is only to deny approval of a settlement agreement in exceptional circumstances. This deference is explained, in part, by the high desirability of encouraging settlement agreements between Staff and respondents, and promoting certainty in the industry. Of course, the Commission is fully entitled to reject a settlement agreement which falls outside the range of reasonable outcomes available in the circumstances and thus, is contrary to the public interest. The Commission is to consider the terms of the settlement agreement in their totality, rather than considering each term in isolation.

[9] In my view, this settlement agreement falls within the range of reasonable dispositions available in the circumstances, and most importantly, is in the public interest. In particular, it appropriately addresses both general and specific deterrence. All of the terms of the settlement agreement, including but not limited to the $350,000 administrative penalty and six year prohibitions, are designed to send a strong message not only to Mr. Cheng, but to those who might be inclined to engage in similar conduct. The terms also appropriately reflect the aggravating features of Mr. Cheng's misconduct which distinguish Mr. Cheng from Mr. Rothstein, who previously entered into a settlement agreement which was approved by the Commission.

[10] The settlement agreement also takes into consideration, as it should, a number of circumstances which are largely mitigating. These include the following:

a. Mr. Cheng's misconduct has resulted in his loss of employment. I am advised that he has not worked in the Canadian securities industry for almost two years, and that it will likely continue to be difficult for him to find work in Canada. Mr. Cheng provides financial support for his family, including two school-aged children;

b. Mr. Cheng has no prior record of breaching Ontario securities law;

c. Mr. Cheng did not trade in any of his personal accounts on material non-public information, nor did he profit from any such trading;

d. Although this does not excuse his misconduct, Mr. Cheng felt some pressure to provide the tip to placate a customer, who had threatened to pull business from AHAMI if he did not receive something of value; and

e. As already noted, Mr. Cheng has agreed to cooperate with Staff and provide testimony at any related merits hearing.

[11] For these reasons, I approve the settlement agreement on the terms proposed by the parties. An Order will be issued in substantially the form appended to the settlement agreement.

[12] I am grateful to counsel for their assistance throughout.

Dated at Toronto this 15th day of June, 2018.

"Mark J. Sandler"

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
AlkaLi3 Resources Inc.	05 June 2018	13 June 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
Agility Health, Inc.	01 May 2018	
Katanga Mining Limited	15 August 2017	
Sage Gold Inc.	01 May 2018	

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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:
Advanced Education Savings Plan
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated June 8, 2018
Received on June 13, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Global RESP Corporation
Promoter(s):
Global Educational Trust Foundation
Project #2709235

Issuer Name:
AGF Global Convertible Bond Fund
AGF Canadian Growth Equity Class
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated June 18, 2018
Received on June 18, 2018
Offering Price and Description:
Series I
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
N/A
Project #2740888

Issuer Name:
AlphaDelta Canadian Focused Equity Class
AlphaDelta Growth of Dividend Income Class
AlphaDelta Tactical Growth Class
Qwest Energy Canadian Resource Class
Principal Regulator – British Columbia
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 15, 2018
Offering Price and Description:
Series A1 and H Shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Qwest Investment Fund Management Ltd.
Project #2785166

Issuer Name:
BetaPro Canadian Gold Miners -2x Daily Bear ETF (formerly Horizons BetaPro S&P/TSX Global Gold Bear Plus ETF)
BetaPro Canadian Gold Miners 2x Daily Bull ETF (formerly Horizons BetaPro S&P/TSX Global Gold Bull Plus ETF)
BetaPro Canadian Marijuana Companies 2x Daily Bear ETF
BetaPro Canadian Marijuana Companies 2x Daily Bull ETF
BetaPro Canadian Marijuana Companies Inverse ETF
BetaPro NASDAQ-100® -2x Daily Bear ETF (formerly Horizons BetaPro NASDAQ-100® Bear Plus ETF)
BetaPro NASDAQ-100® 2x Daily Bull ETF (formerly Horizons BetaPro NASDAQ-100® Bull Plus ETF)
BetaPro S&P 500® -2x Daily Bear ETF (formerly Horizons BetaPro S&P 500® Bear Plus ETF)
BetaPro S&P 500® 2x Daily Bull ETF (formerly Horizons BetaPro S&P 500® Bull Plus ETF)
BetaPro S&P 500® Daily Inverse ETF (formerly Horizons BetaPro S&P 500® Inverse ETF)
BetaPro S&P/TSX 60 -2x Daily Bear ETF (formerly Horizons BetaPro S&P/TSX 60 Bear Plus ETF)
BetaPro S&P/TSX 60 2x Daily Bull ETF (formerly Horizons BetaPro S&P/TSX 60 Bull Plus ETF)
BetaPro S&P/TSX 60 Daily Inverse ETF (formerly Horizons BetaPro S&P/TSX 60 Inverse ETF)
BetaPro S&P/TSX Capped Energy -2x Daily Bear ETF (formerly Horizons BetaPro S&P/TSX Capped Energy Bear Plus ETF)
BetaPro S&P/TSX Capped Energy 2x Daily Bull ETF (formerly Horizons BetaPro S&P/TSX Capped Energy Bull Plus ETF)
BetaPro S&P/TSX Capped Financials -2x Daily Bear ETF (formerly Horizons BetaPro S&P/TSX Capped Financials Bear Plus ETF)
BetaPro S&P/TSX Capped Financials 2x Daily Bull ETF (formerly Horizons BetaPro S&P/TSX Capped Financials Bull Plus ETF)
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Long Form Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 14, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Horizons ETFs Management (Canada) Inc.
Project #2785476

Issuer Name:
Caldwell Balanced Fund
Caldwell Canadian Value Momentum Fund
Caldwell Income Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated June 15, 2018
Received on June 15, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Caldwell Securities Ltd.
Promoter(s):
N/A
Project #2640739

Issuer Name:
CIBC Multi-Asset Absolute Return Strategy
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated June 15, 2018
NP 11-202 Preliminary Receipt dated June 15, 2018
Offering Price and Description:
Series A, Series F, Series S and Series O Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
CIBC Asset Management Inc.
Project #2786166

Issuer Name:
Counsel Conservative Portfolio
Counsel Conservative Portfolio Class
Counsel Balanced Portfolio
Counsel Balanced Portfolio Class
Counsel Growth Portfolio
Counsel Growth Portfolio Class
Counsel All Equity Portfolio
Counsel Canadian Dividend
Counsel Canadian Dividend Class
Counsel Canadian Value
Counsel Canadian Growth
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated June 13, 2018
Received on June 14, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2672281

Issuer Name:
EHP Advantage Alternative Fund
EHP Advantage International Alternative Fund
EHP Global Arbitrage Alternative Fund
EHP Guardian Alternative Fund
EHP Guardian International Alternative Fund
EHP Select Alternative Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated June 15, 2018
NP 11-202 Preliminary Receipt dated June 18, 2018
Offering Price and Description:
Class A, Class F and Class I Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
EdgeHill Partners
Project #2786290

Issuer Name:
Epoch European Equity Fund
Epoch Global Equity Class
Epoch Global Equity Fund
Epoch Global Shareholder Yield Currency Neutral Fund
Epoch Global Shareholder Yield Fund
Epoch International Equity Fund
Epoch U.S. Blue Chip Equity Currency Neutral Fund
Epoch U.S. Blue Chip Equity Fund
Epoch U.S. Large-Cap Value Class
Epoch U.S. Large-Cap Value Fund
Epoch U.S. Shareholder Yield Fund
TD Advantage Aggressive Growth Portfolio
TD Advantage Balanced Growth Portfolio
TD Advantage Balanced Income Portfolio
TD Advantage Balanced Portfolio
TD Advantage Growth Portfolio
TD Asian Growth Fund
TD Balanced Growth Fund
TD Balanced Income Fund
TD Balanced Index Fund
TD Canadian Blue Chip Dividend Fund
TD Canadian Bond Fund
TD Canadian Bond Index Fund
TD Canadian Core Plus Bond Fund
TD Canadian Corporate Bond Fund
TD Canadian Diversified Yield Fund
TD Canadian Equity Class
TD Canadian Equity Fund
TD Canadian Equity Pool
TD Canadian Equity Pool Class
TD Canadian Index Fund
TD Canadian Large-Cap Equity Fund
TD Canadian Low Volatility Class
TD Canadian Low Volatility Fund
TD Canadian Money Market Fund
TD Canadian Small-Cap Equity Class
TD Canadian Small-Cap Equity Fund
TD Canadian Value Class
TD Canadian Value Fund
TD Comfort Aggressive Growth Portfolio
TD Comfort Balanced Growth Portfolio
TD Comfort Balanced Income Portfolio
TD Comfort Balanced Portfolio
TD Comfort Conservative Income Portfolio
TD Comfort Growth Portfolio
TD Core Canadian Value Fund
TD Corporate Bond Plus Fund
TD Diversified Monthly Income Fund
TD Dividend Growth Class
TD Dividend Growth Fund
TD Dividend Income Class
TD Dividend Income Fund
TD Dow Jones Industrial Average Index Fund
TD Emerging Markets Class
TD Emerging Markets Fund
TD Emerging Markets Low Volatility Fund
TD Entertainment & Communications Fund
TD European Index Fund
TD Fixed Income Pool
TD Global Balanced Opportunities Fund (formerly TD Target Return Balanced Fund)
TD Global Conservative Opportunities Fund (formerly TD Target Return Conservative Fund)
TD Global Core Plus Bond Fund (formerly TD Global Bond Fund)
TD Global Equity Focused Fund
TD Global Equity Pool
TD Global Equity Pool Class
TD Global Income Fund
TD Global Low Volatility Class
TD Global Low Volatility Fund
TD Global Risk Managed Equity Class
TD Global Risk Managed Equity Fund
TD Global Unconstrained Bond Fund
TD Health Sciences Fund
TD High Yield Bond Fund
TD Income Advantage Portfolio
TD International Growth Class
TD International Growth Fund
TD International Index Currency Neutral Fund
TD International Index Fund
TD International Stock Fund
TD Monthly Income Fund
TD Nasdaq Index Fund
TD North American Dividend Fund
TD North American Small-Cap Equity Fund
TD Precious Metals Fund
TD Premium Money Market Fund
TD Real Return Bond Fund
TD Resource Fund
TD Retirement Balanced Portfolio
TD Retirement Conservative Portfolio
TD Risk Management Pool
TD Science & Technology Fund
TD Short Term Bond Fund
TD Short Term Investment Class
TD Strategic Yield Fund
TD Tactical Monthly Income Class
TD Tactical Monthly Income Fund
TD Tactical Pool
TD Tactical Pool Class
TD U.S. Blue Chip Equity Fund
TD U.S. Corporate Bond Fund
TD U.S. Dividend Growth Fund
TD U.S. Equity Portfolio
TD U.S. Index Currency Neutral Fund
TD U.S. Index Fund
TD U.S. Low Volatility Currency Neutral Fund
TD U.S. Low Volatility Fund
TD U.S. Mid-Cap Growth Class
TD U.S. Mid-Cap Growth Fund
TD U.S. Money Market Fund
TD U.S. Monthly Income Fund
TD U.S. Monthly Income Fund – C$
TD U.S. Quantitative Equity Fund
TD U.S. Risk Managed Equity Class
TD U.S. Risk Managed Equity Fund
TD U.S. Small-Cap Equity Fund
TD Ultra Short Term Bond Fund
TD US$ Retirement Portfolio
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated June 14, 2018

NP 11-202 Preliminary Receipt dated June 15, 2018
Offering Price and Description:
Investor Series, H8 Series, D-Series, Advisor Series, T8 Series, F-Series, FT5 Series, FT8 Series, Private Series and O-Series
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series and e-Series Units)
TD Waterhouse Canada Inc. (W-Series)
Promoter(s):
TD Asset Management Inc.
Project #2785920

Issuer Name:
Legacy Education Savings Plan (formerly, Global Educational Trust Plan)
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated June 8, 2018
Received on June 13, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Global RESP Corporation
Promoter(s):
Global Educational Trust Foundation
Project #2709240

Issuer Name:
Purpose Diversified Real Asset Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated June 14, 2018
Received on June 15, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Purpose Investrments Inc.
Project #2644964

Issuer Name:
Redwood Unconstrained Bond Fund
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated June 14, 2018
Received on June 15, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Redwood Asset Management Inc.
Promoter(s):
Redwood Asset Management Inc.
Project #2690436

Issuer Name:
Sprott Physical Gold Trust
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus (NI 44-102) dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 13, 2018
Offering Price and Description:
U.S.$1,500,000,000 – Trust Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2785067

Issuer Name:
Sprott Physical Platinum and Palladium Trust
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus (NI 44-102) dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 13, 2018
Offering Price and Description:
U.S.$100,000,000 – Trust Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2785083

Issuer Name:
Sprott Physical Silver Trust
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus (NI 44-102) dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 13, 2018
Offering Price and Description:
U.S.$1,500,000,000 – Trust Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2785077

Issuer Name:
Advanced Education Savings Plan
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated June 8, 2018
NP 11-202 Receipt dated June 18, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Global RESP Corporation
Promoter(s):
Global Educational Trust Foundation
Project #2709235

Issuer Name:
BMO Aggregate Bond Index ETF
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated June 11, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
BMO Asset Management Inc.
Project #2711761

Issuer Name:
Gateway Low Volatility U.S. Equity Fund
Loomis Sayles Global Diversified Corporate Bond Class
Loomis Sayles Global Diversified Corporate Bond Fund
Loomis Sayles Strategic Monthly Income Fund
Natixis Canadian Bond Class
Natixis Canadian Bond Fund
Natixis Canadian Cash Fund
Natixis Canadian Dividend Class
Natixis Canadian Dividend Registered Fund
Natixis Canadian Preferred Share Class
Natixis Canadian Preferred Share Registered Fund
Natixis Global Equity Class
Natixis Global Equity Registered Fund
Natixis Intrinsic Balanced Class
Natixis Intrinsic Balanced Registered Fund
Natixis Intrinsic Growth Class
Natixis Intrinsic Growth Registered Fund
Natixis Strategic Balanced Class
Natixis Strategic Balanced Registered Fund
Natixis U.S. Dividend Plus Class
Natixis U.S. Dividend Plus Registered Fund
Natixis U.S. Growth Class
Natixis U.S. Growth Registered Fund
Oakmark International Natixis Class
Oakmark International Natixis Registered Fund
Oakmark Natixis Class
Oakmark Natixis Registered Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated June 8, 2018
NP 11-202 Receipt dated June 13, 2018
Offering Price and Description:
Series A, F (formerly Series HF), H, I, Ordinary Class (Series A, F, H and I), Hedged Class (Series A (Hedged) and F (Hedged), Return of Capital (formerly Return of Capital 40) (Series A, F, H and I), Dividend (formerly Dividend 40) (Series A, F, H and I), Compound Growth (Series A, F, H and I), Return of Capital (Series A, F (formerly Series HF), H and I), Dividend (Series A, F (formerly Series HF), H and I)
Underwriter(s) or Distributor(s):
NGAM Canada LP
Promoter(s):
N/A
Project #2768482

Issuer Name:
Harvest Banks & Buildings Income Fund
Harvest Canadian Income & Growth Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated June 15, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
Series A, Series D, Series F and Series R Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Harvest Portfolios Group Inc.
Project #2772555

Issuer Name:
Harvest Brand Leaders Plus Income ETF
Harvest Energy Leaders Plus Income ETF
Harvest Global REIT Leaders Income ETF
Harvest Healthcare Leaders Income ETF
Harvest Tech Achievers Growth & Income ETF
Harvest US Equity Plus Income ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated June 14, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2771644

Issuer Name:
Horizons Blockchain Technology & Hardware Index ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated June 11, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
Class A Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Horizons ETFs Management (Canada) Inc.
Project #2740774

Issuer Name:
Legacy Education Savings Plan (formerly, Global Educational Trust Plan)
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated June 8, 2018
NP 11-202 Receipt dated June 18, 2018
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Global RESP Corporation
Promoter(s):
Global Educational Trust Foundation
Project #2709240

Issuer Name:
MD Precision Canadian Balanced Growth Fund (formerly MD Balanced Fund)
MD Bond Fund
MD Short-Term Bond Fund
MD Precision Canadian Moderate Growth Fund (formerly MD Dividend Income Fund)
MD Equity Fund
MD Growth Investments Limited (Series A, Series I, Series F and Series D shares)
MD Dividend Growth Fund
MD International Growth Fund
MD International Value Fund
MD Money Fund (Series A and Series D units)
MD Select Fund
MD American Growth Fund
MD American Value Fund
MD Strategic Yield Fund
MD Strategic Opportunities Fund
MD Fossil Fuel Free Bond Fund
MD Fossil Fuel Free Equity Fund
MD Precision Conservative Portfolio
MD Precision Balanced Income Portfolio
MD Precision Moderate Balanced Portfolio
MD Precision Moderate Growth Portfolio
MD Precision Balanced Growth Portfolio
MD Precision Maximum Growth Portfolio
MDPIM Canadian Equity Pool
MDPIM US Equity Pool
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated June 8, 2018
NP 11-202 Receipt dated June 14, 2018
Offering Price and Description:
Series A, Series I, Series F and Series D units
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
MD Financial Management Inc.
Project #2757613

Issuer Name:
MDPIM Canadian Bond Pool
MDPIM Canadian Long Term Bond Pool
MDPIM Dividend Pool
MDPIM Strategic Yield Pool
MDPIM Canadian Equity Pool
MDPIM US Equity Pool
MDPIM International Equity Pool
MDPIM Strategic Opportunities Pool
MDPIM Emerging Markets Equity Pool
MDPIM S&P/TSX Capped Composite Index Pool
MDPIM S&P 500 Index Pool
MDPIM International Equity Index Pool
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated June 8, 2018
NP 11-202 Receipt dated June 14, 2018
Offering Price and Description:
Series A, Series I, Series F and Series D units
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
MD Financial Management Inc.
Project #2757644

Issuer Name:
PIMCO Canadian Total Return Bond Fund
PIMCO Monthly Income Fund
PIMCO Flexible Global Bond Fund (Canada) (Formerly PIMCO Global Advantage Strategy Bond Fund (Canada))
PIMCO Unconstrained Bond Fund (Canada)
PIMCO Investment Grade Credit Fund (Canada)
PIMCO Balanced Income Fund (Canada)
Principal Regulator – Ontario
Type and Date:
Amended and Restated to Final Simplified Prospectus dated May 31, 2018
NP 11-202 Receipt dated June 13, 2018
Offering Price and Description:
Series A, Series F, Series I, Series M and Series O, Series A(US$), Series F(US$), Series I(US$), Series M(US$), Series O(US$), Series H and ETF Series units @ net asset value
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
PIMCO Canada Corp.
Project #2644394

Issuer Name:
Redwood Unconstrained Bond Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated June 1, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
ETF Shares; Series A, Series A USD, Series F, Series F USD and Series PHP mutual fund shares; ETF Units and Class A, Class F and Class I mutual fund units
Underwriter(s) or Distributor(s):
Redwood Asset Management Inc.
Promoter(s):
Redwood Asset Management Inc.
Project #2690436

Issuer Name:
Redwood Energy Credit Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated June 1, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
ETF Currency Hedged Units, U.S. Dollar Denominated ETF Non-Currency Hedged Units and Class A and Class F mutual fund units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Redwood Asset Management Inc.
Project #2698318

NON-INVESTMENT FUNDS

Issuer Name:
Acerus Pharmaceuticals Corporation
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 12, 2018
Offering Price and Description:
$5,750,010.00 – 19,166,700 Units
Price: $0.30 per Unit
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
–
Project #2783555

Issuer Name:
Aphria Inc. (formerly, Black Sparrow Capital Corp.)
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 12, 2018
Offering Price and Description:
$225,000,690.00
18,987,400 Common Shares
Price: $11.85 per Common Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
Canaccord Genuity Corp.
Cormark Securities Inc.
Haywood Securities Inc.
INFOR Financial Inc.
Promoter(s):
–
Project #2783872

Issuer Name:
Canaccord Genuity Acquisition Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated June 18, 2018
NP 11-202 Preliminary Receipt dated June 18, 2018
Offering Price and Description:
non-offering
Underwriter(s) or Distributor(s):
–
Promoter(s):
CG Investments Inc.
Jason Sparaga
Andrew Clark
Project #2784506

Issuer Name:
Canadian Imperial Bank of Commerce
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 12, 2018
Offering Price and Description:
$10,000,000,000.00
Debt Securities (unsubordinated indebtedness)
Debt Securities (subordinated indebtedness)
Common Shares
Class A Preferred Shares
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2784949

Issuer Name:
Cobalt 27 Capital Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 12, 2018
Offering Price and Description:
$300,300,000.00
30,800,000 Common Shares
Price: $9.75 per Offered Share
Underwriter(s) or Distributor(s):
TD Securities Inc.
Credit Suisse Securities (Canada), Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Haywood Securities Inc.
Canaccord Genuity Corp.
Cormark Securities Inc.
Eight Capital
Promoter(s):
Anthony Milewski
Project #2784809

Issuer Name:
Exchange Income Corporation
Principal Regulator – Manitoba
Type and Date:
Preliminary Short Form Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 12, 2018
Offering Price and Description:
$70,000,000.00
7 Year 5.35% Convertible Unsecured Subordinated Debentures
Price Per Debenture: $1,000.00
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Laurentian Bank Securities Inc.
CIBC World Markets Inc.
Cormark Securities Inc.
Raymond James Ltd.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Canaccord Genuity Corp.
Altacorp Capital Inc.
Macquarie Capital Markets Canada Ltd.
Wellington-Altus Private Wealth Inc.
Promoter(s):
–
Project #2783675

Issuer Name:
Pinnacle Renewable Holdings Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 12, 2018
Offering Price and Description:
$50,050,000.00
3,640,000 Common Shares
Price: $13.75 per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
GMP Securities L.P.
Raymond James Ltd.
HSBC Securities (Canada) Inc.
Promoter(s):
–
Project #2783618

Issuer Name:
The Toronto-Dominion Bank
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated June 12, 2018
NP 11-202 Preliminary Receipt dated June 13, 2018
Offering Price and Description:
$4,000,000,000.00 Senior Medium Term Notes
Underwriter(s) or Distributor(s):
TD Securities Inc.
Desjardins Securities Inc.
Industrial Alliance Securities Inc.
Laurentian Bank Securities Inc.
Promoter(s):
–
Project #2785100

Issuer Name:
Vogogo Inc. (formerly Southtech Capital Corporation)
Principal Regulator – Alberta (ASC)
Type and Date:
Amendment dated June 11, 2018 to Preliminary Short Form Prospectus dated May 15, 2018
NP 11-202 Preliminary Receipt dated June 12, 2018
Offering Price and Description:
$30,000,000.00
8% Extendible Convertible Debenture Units
(30,000 Units at a price of $1,000 per Unit)
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Beacon Securities Limited
Promoter(s):
–
Project #2772406

Issuer Name:
BTB Real Estate Investment Trust
Principal Regulator – Quebec
Type and Date:
Final Short Form Prospectus dated June 12, 2018
NP 11-202 Receipt dated June 12, 2018
Offering Price and Description:
$25,001,000.00 – 5,435,000 Units at a price of $4.60 per Unit

Underwriter(s) or Distributor(s):
National Bank Financial Inc.
TD Securities Inc.
Echelon Wealth Partners Inc.
Laurentian Bank Securities Inc.
Raymond James Ltd.
Scotia Capital Inc.
GMP Securities L.P.
Industrial Alliance Securities Inc.
Promoter(s):
–
Project #2781687

Issuer Name:
Conifex Timber Inc.
Principal Regulator – British Columbia
Type and Date:
Final Short Form Prospectus dated June 11, 2018
NP 11-202 Receipt dated June 12, 2018
Offering Price and Description:
$64,500,000.00
10,750,000 Subscription Receipts
representing the right to receive one Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Promoter(s):
–
Project #2776559

Issuer Name:
Dream Global Real Estate Investment Trust
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated June 18, 2018
NP 11-202 Receipt dated June 18, 2018
Offering Price and Description:
$175,200,000.00 – 12,000,000 Units
PRICE: $14.60 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Canaccord Genuity Corp.
National Bank Financial Inc.
Desjardins Securities Inc.
GMP Securities L.P.
Industrial Alliance Securities Inc.
Promoter(s):
–
Project #2783249

Issuer Name:
Franco-Nevada Corporation
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated June 15, 2018
NP 11-202 Receipt dated June 18, 2018
Offering Price and Description:
Common Shares
Preferred Shares
Debt Securities
Warrants
Subscription Receipts
US$2,000,000,000
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2778671

Issuer Name:
Hydro One Limited
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated June 18, 2018
NP 11-202 Receipt dated June 18, 2018
Offering Price and Description:
$4,000,000,000.00 – Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2784210

Issuer Name:
Mogo Finance Technology Inc.
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated June 15, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
$50,000,000.00
Common Shares
Preferred Shares
Debt Securities
Warrants
Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2756740

Issuer Name:
Nevada Copper Corp.
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated June 15, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
Common Shares
Debt Securities
Warrants
Subscription Receipts
$200,000,000.00
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2783824

Issuer Name:
Newstrike Resources Ltd.
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated June 12, 2018
NP 11-202 Receipt dated June 12, 2018
Offering Price and Description:
$45,000,000.00
60,000,000 Units
Price: $0.75 per Unit
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
Infor Financial Inc.
Haywood Securities Inc.
Eight Capital
Promoter(s):
–
Project #2776642

Issuer Name:
Schooner Capital Corp.
Principal Regulator – Ontario
Type and Date:
Final CPC Prospectus (TSX-V) dated June 11, 2018
NP 11-202 Receipt dated June 13, 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:
Theratechnologies Inc.
Principal Regulator – Quebec
Type and Date:
Final Short Form Prospectus dated June 12, 2018
NP 11-202 Receipt dated June 12, 2018
Offering Price and Description:
US$50,000,000
5.75% Convertible Unsecured Senior Notes
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
National Bank Financial Inc.
CIBC World Markets Inc.
Mackie Research Capital Corp.
Canaccord Genuity Corp.
Echelon Wealth Partners Inc.
Promoter(s):
–
Project #2781350

Issuer Name:
UrtheCast Corp.
Principal Regulator – British Columbia
Type and Date:
Final Short Form Prospectus dated June 14, 2018
NP 11-202 Receipt dated June 15, 2018
Offering Price and Description:
Senior Unsecured Convertible Debentures in the aggregate principal amount of $6,016,836 Issuable on Conversion of 17,190,960 Subscription Receipts
9,401,306 Common Share Purchase Warrants Issuable on Conversion of 17,190,960 Subscription Receipts
Senior Unsecured Convertible Debentures in the aggregate principal amount of $7,710,600
12,047,812 Common Share Purchase Warrants
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2783212

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Amerity Wealth Management Inc.	Mutual Fund Dealer	June 14, 2018
Voluntary Surrender	Gundy Inc.	Exempt Market Dealer	June 7, 2018
Consent to Suspension (Pending Surrender)	Aberdeen Gould Capital Markets Ltd.	Exempt Market Dealer	June 14, 2018
New Registration	Burgess Investment Management and Research Inc.	Portfolio Manager	June 18, 2018

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 IIROC – Housekeeping Amendments to UMIR Policy 7.1 – Notice of Commission Deemed Approval

NOTICE OF COMMISSION DEEMED APPROVAL

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

HOUSEKEEPING AMENDMENTS TO UMIR POLICY 7.1

The Ontario Securities Commission did not object to the classification of IIROC's proposed housekeeping amendments to Policy 7.1 of the Universal Market Integrity Rules respecting Trading Supervision Obligations. As a result, the proposed housekeeping amendments are deemed to be approved and are effective immediately.

In addition, the Alberta Securities Commission, the Autorité des marchés financiers, the British Columbia Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Financial and Consumer Services Commission of New Brunswick, the Manitoba Securities Commission, the Newfoundland and Labrador Office of the Superintendent of Securities Services, the Nova Scotia Securities Commission, and the Prince Edward Island Office of the Superintendent of Securities did not object to the amendments.

A copy of IIROC's Notice of Approval/Implementation and the text of the approved amendments can be found at http://www.osc.gov.on.ca.

13.3 Clearing Agencies

13.3.1 CDS – Material Amendments to CDS Rules Related to Non-LVTS Settlement Agents – Notice of Commission Approval

CDS CLEARING AND DEPOSITORY SERVICES INC.

MATERIAL AMENDMENTS TO CDS RULES RELATED TO NON-LVTS SETTLEMENT AGENTS

NOTICE OF COMMISSION APPROVAL

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and CDS Clearing and Depository Services Inc. (CDS), the Commission approved on June 13, 2018 Material Amendments to CDS Participant Rules Related to Non-LVTS Settlement Agents.

A copy of the CDS notice was published for comment on March 22, 2018 on the Commission's website at: http://www.osc.gov.on.ca. No comments were received.

Chapter 25

Other Information

25.1 Approvals

25.1.1 Lynwood Capital Management Inc. – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with no prior track record acting as trustee, for approval to act as trustee of mutual fund trusts and any future mutual fund trusts to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

June 8, 2018

McMillan LLP
Brookfield Place
181 Bay Street
Suite 4400
Toronto, ON M5J 2T3

Attention: Jason A. Chertin

Dear Sirs/Mesdames:

Re: Lynwood Capital Management Inc. (the "Applicant")

Application pursuant to clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario) for approval to act as trustee

Application No. 2018/0274

Further to your application dated May 17, 2018 (the "**Application**") filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that the assets of Lynwood Opportunities Fund, and any other future mutual fund trusts that the Applicant may establish and manage from time to time, the securities of which will be offered pursuant to prospectus exemptions, will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the *Bank Act* (Canada), or a qualified affiliate of such bank or trust company, the Ontario Securities Commission (the "**Commission**") makes the following order:

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of Lynwood Opportunities Fund and any other future mutual fund trusts which may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to prospectus exemptions.

Yours truly,

"William Furlong"
Commissioner

"Janet Leiper"
Commissioner

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