The Ontario Securities Commission

OSC Bulletin

January 31, 2019

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

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Canadian Securities Administrators

Autorités canadiennes en valeurs mobilières

CSA Staff Notice 23-324
Order Protection Rule: Market Share Threshold for the period April 1, 2019 to March 31, 2020

January 31, 2019

Introduction

On June 20, 2016, the Canadian Securities Administrators (the **CSA** or **we**) published a notice[1] (the **2016 Notice**) regarding the implementation of the market share threshold. This notice updates the list of protected and unprotected marketplaces published on January 25, 2018. The updated list will be in effect from April 1, 2019 to March 31, 2020. We note that there is one change from last year. Specifically, Aequitas NEO Exchange's lit book, NEO-L, has qualified as a marketplace that displays protected orders.

The text of this notice is available on the websites of the CSA jurisdictions, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.fcnb.ca
nssc.novascotia.ca
www.osc.gov.on.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Purpose

The purpose of this notice is to provide the list of marketplaces that display protected orders (**protected marketplaces**) and marketplaces whose orders will not be protected (**unprotected marketplaces**) for the purposes of National Instrument 23-101 *Trading Rules* (**NI 23-101**) and the order protection rule (**OPR**) for the period April 1, 2019 to March 31, 2020 because they do not:

(i) provide automated trading functionality as they have an intentional order processing delay, and/or

(ii) meet the market share threshold.

The market share threshold has been set at 2.5%.[2]

[1] CSA Staff Notice 23-316 Order Protection Rule: Implementation of the Market Share Threshold and Amendments to Companion Policy 23-101 *Trading Rules*.

[2] CSA Staff Notice 23-316 includes a description of the calculation of the market share threshold.

OPR Requirements

Section 6.1 of NI 23-101 requires marketplaces to establish, maintain and ensure compliance with policies and procedures that are reasonably designed to prevent trade-throughs of better priced protected bids and offers. Section 6.4 of NI 23-101 imposes the same requirement on marketplace participants that assume responsibility for compliance with OPR by entering directed-action orders.

Section 1.1 of NI 23-101 defines protected bids and offers as bids and offers displayed on a marketplace offering automated trading functionality, and about which information is provided to an information processor.

Section 1.1.2.1 of Companion Policy 23-101 *Trading Rules* outlines the circumstances in which a marketplace that introduced an intentional order processing delay would not be considered to be providing automated trading functionality. In those circumstances, the orders on that marketplace would not be protected.

Orders on "dark" marketplaces are not protected as they are not displayed. Therefore, orders on ICX, LiquidNet, MATCHNow, Aequitas NEO dark book (NEO-D) and Nasdaq CXD are unprotected for the purposes of OPR.

List of Protected and Unprotected Marketplaces

Below we have listed the protected and unprotected marketplaces.

The orders displayed on the marketplaces listed in Table 1 below are protected because either the marketplace meets the market share threshold and/or the orders are for securities that are listed by and traded on that marketplace:

Table 1 – Marketplaces that Display Protected Orders

Marketplace	Market Share	Status	Reason Protected
NEO-L	3.43	Protected	Meets market share threshold
CSE	8.92	Protected	Meets market share threshold
Nasdaq CXC	10.00	Protected	Meets market share threshold
Nasdaq CX2	4.47	Protected	Meets market share threshold
Omega	5.39	Protected	Meets market share threshold
TSX	45.72	Protected	Meets market share threshold
TSX Venture	11.48	Protected	Meets market share threshold

Orders displayed on the marketplaces listed on Table 2 below will be unprotected because either the marketplace does not provide automated trading functionality, does not meet the market share threshold or does not display orders:

Table 2 – Marketplaces whose Orders Are Unprotected

Marketplace	Market Share	Status	Reason Unprotected
NEO-N	2.98	Unprotected	Does not provide automated trading functionality
Alpha	7.51	Unprotected	Does not provide automated trading functionality
Lynx	0.09	Unprotected	Does not meet market share threshold
ICX		Unprotected	Does not display orders
LiquidNet		Unprotected	Does not display orders
MATCHNow		Unprotected	Does not display orders
Nasdaq CXD		Unprotected	Does not display orders
NEO-D		Unprotected	Does not display orders

QUESTIONS

Please refer your questions to any of the following:

Alina Bazavan Senior Analyst, Market Regulation Ontario Securities Commission abazavan@osc.gov.on.ca	Alex Petro Trading Specialist, Market Regulation Ontario Securities Commission apetro@osc.gov.on.ca
Roland Geiling Exchanges and SRO Oversight Direction des bourses et des OAR Autorité des marchés financiers Roland.Geiling@lautorite.qc.ca	Serge Boisvert Senior Policy Analyst Exchanges and SRO Oversight Autoritè des marchés financiers serge.boisvert@lautorite.qc.ca
Bruce Sinclair Securities Market Specialist British Columbia Securities Commission bsinclair@bcsc.bc.ca	Sasha Cekerevac Regulatory Analyst, Market Regulation Alberta Securities Commission sasha.cekerevac@asc.ca

1.4 Notices from the Office of the Secretary

1.4.1 Keir Reynolds

FOR IMMEDIATE RELEASE
January 23, 2019

KEIR REYNOLDS,
File No. 2018-64

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 January 22, 2019 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.4.2 Donna Hutchinson et al.

FOR IMMEDIATE RELEASE
January 23, 2019

DONNA HUTCHINSON,
CAMERON EDWARD CORNISH,
DAVID PAUL GEORGE SIDDERS and
PATRICK JELF CARUSO,
File No. 2017-54

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

A copy of the Order dated January 23, 2019 is available at www.osc.gov.on.ca.

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GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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1.4.3 Michelle Dunk

FOR IMMEDIATE RELEASE
January 25, 2019

MICHELLE DUNK,
File No. 2018-74

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 January 24, 2019 are available at www.osc.gov.on.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Bridgeport Asset Management Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to certain investment funds to invest in and hold securities of blocker entities subject to conditions – relief required to permit the funds to use the blockers to indirectly invest in certain issuers in a tax-efficient manner and to avoid certain ownership restrictions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(a), 15.1.
Securities Act (Ontario), R.S.O. 1990, c. S.5, ss. 111(2)(b), 111(4), 113.

January 18, 2019

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
BRIDGEPORT ASSET MANAGEMENT INC.
(the Filer)

AND

BRIDGEPORT CANADIAN EQUITY FUND,
BRIDGEPORT U.S. EQUITY FUND,
BRIDGEPORT SMALL AND MID CAP EQUITY FUND,
BRIDGEPORT HIGH INCOME FUND,
BRIDGEPORT CANADIAN EQUITY LP,
BRIDGEPORT U.S. EQUITY LP,
BRIDGEPORT SMALL AND MID CAP EQUITY LP,
BALMORAL WOOD COMMERCIAL ADVOCATE PARALLEL FUND I LP,
BALMORAL WOOD COMMERCIAL ADVOCATE FUND I LP,
BALMORAL WOOD COMMERCIAL ADVOCATE INTERNATIONAL FUND I LP,
BRIDGEPORT STRATEGIC INCOME LP,
BRIDEPORT ALTERNATIVE INCOME LIMITED PARTNERSHIP AND
BRIDGEPORT ALTERNATIVE INCOME FUND
(the Initial Funds)

DECISION

Background

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

(a) exempting each Fund from the restriction in the Legislation which prohibits an investment fund from knowingly making an investment in a person or company in which the investment fund, alone or together with one or more related investment funds, is a substantial security holder and the restriction in the Legislation which prohibits an investment fund, its management company or its distribution company, from knowingly holding such an investment (the **Substantial Security Holder Relief**); and

(b) pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) exempting the Filer from paragraph 13.5(2)(a) of NI 31-103 (the **Consent Relief**),

in each case to permit each Fund to purchase and hold securities of Blockers (as defined below) (together, the **Requested Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

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

(i) in respect of the Substantial Security Holder Relief, by each Fund in each other Applicable Jurisdiction (as defined below);

(ii) in respect of the Consent Relief, by the Filer in British Columbia.

Interpretation

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

"Applicable Jurisdiction" means Ontario, British Columbia and Alberta.

"Funds" means the Initial Funds and the Future Funds.

"Future Fund" means a future investment fund that is not a reporting issuer under the securities legislation of any jurisdiction of Canada and for which the Filer is the manager.

"NI 81-102" means National Instrument 81-102 *Investment Funds*.

"OSA" means the *Securities Act* (Ontario).

The representations by the Filer respecting each Future Fund are made as of the date such Future Fund relies upon the Requested Relief.

Representations

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

Filer

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

2. The Filer is registered in the categories of investment fund manager, portfolio manager and exempt market dealer in Ontario, British Columbia and Quebec, and in the category of portfolio manager in Manitoba.

3. The Filer is not a reporting issuer in any jurisdiction of Canada.

4. The Filer is the manager and portfolio manager of each Fund.

Funds

5. Each Fund is either:

   (a) a trust formed under the laws of Ontario, British Columbia or another jurisdiction of Canada; or

   (b) a limited partnership formed under the laws of Ontario, British Columbia or another jurisdiction of Canada.

6. Each Fund is an "investment fund" (as such term is defined under the OSA). Each Initial Fund is not, and each Future Fund will not be, a reporting issuer under the securities legislation of any Applicable Jurisdiction. Each Fund is not subject to the requirements of NI 81-102.

7. The Filer and each Fund is not in default of securities legislation in any Applicable Jurisdiction.

Blockers

8. To ensure compliance with foreign tax filing obligations and/or ownership restrictions on certain of a Fund's investments and minimize withholding tax issues, the Filer may interpose an entity (a **Blocker**) between a Fund and any issuer in which it owns securities (an **Issuer**).

9. Each Blocker will be either (i) a corporation, partnership or trust established under the laws of a jurisdiction of Canada, (ii) a company, such as a société à responsabilité limitée ("**SARL**"), or partnership established under the laws of Luxembourg, (iii) a corporation, limited liability company or partnership established under the laws of a jurisdiction of the United States, (iv) a limited liability company established under the laws of the Netherlands, or (v) a company or partnership established under the laws of the Cayman Islands.

10. Each Blocker will be formed by the Filer or an affiliate of the Filer and its securities will be held by one or more Funds.

11. In Canada, securities of the Blockers will be issued pursuant to prospectus exemptions in accordance with National Instrument 45-106 *Prospectus Exemptions*.

12. A Fund may transfer an existing interest in an Issuer to a Blocker in exchange for securities of the Blocker. In addition, a Fund may purchase securities of a Blocker for cash or provide a loan to a Blocker, and the Blocker would use that cash to invest in an Issuer. To the extent the Fund(s) transfers an existing interest in an Issuer to a Blocker, the respective Fund(s) will retain the identical beneficial interest in the Issuer.

13. Each Blocker will restrict its activities to owning and holding securities of one Issuer. For greater certainty, different Blockers will hold securities of different Issuers.

14. All of the outstanding securities of each Blocker will be owned by one or more Funds which are seeking to make an investment in the Issuer held by the Blocker.

15. The assets of each Blocker will consist of securities of an Issuer, cash and cash equivalents. The liabilities of each Blocker will consist of any amounts owing for accounting, legal and tax services provided to the Blocker.

16. The Filer is not aware of any additional risk of insolvency to the Funds that would arise as a result of implementing the Blocker structure.

17. Each Blocker will exist solely to achieve the objectives of the applicable Fund(s) which are invested in such Blocker.

Fund-Blocker Structure

18. This type of structuring is fairly common to protect investors from recognizing negative tax consequences of holding the underlying investments directly which is why such entities are often described as "blockers".

19. The tax purposes and benefits of the Fund-Blocker structure will vary depending on the particular investment being made.

20. In the case of Issuers that are U.S. issuers:

    (a) a Blocker can block potential U.S.-source effectively connected income at the Blocker level which results in only the Blocker having to make any required U.S. tax filings with respect to such income (ie. the Blocker and not the owners of the Blocker are subject to U.S. tax); and

    (b) the Fund-Blocker structure may prevent attribution of a U.S. trade or business up the chain to the Fund and potentially the investors in the Fund, which may otherwise result in investors in the Fund being subject to U.S. tax filing obligations.

    Therefore, the Fund-Blocker structure can eliminate both the risk of filing a U.S. tax return and the risk that an investor in a Fund may be deemed to be engaged in a U.S. trade or business.

21. A Blocker may also minimize tax filing obligations for a Fund and/or its investors in connection with Issuers in other jurisdictions.

22. Withholding taxes payable on distributions by Issuers based in certain jurisdictions can be eliminated, minimized or deferred through use of Blocker entities in the jurisdiction of the source of the distribution.

23. The constating documents or investment agreements for international fund Issuers typically contain restrictions on direct transfers of investments. If a Fund invests in an Issuer through a Blocker entity, this eases transfer of beneficial ownership of the investment where indirect transfer by an underlying investor (a Fund or an investor in a Fund) is not prohibited. Typically, indirect transfers behind corporate Blockers are not prohibited by international fund Issuers. Other less typical types of ownership restrictions can include (a) specific persons as partners or other investors in unincorporated Funds, or (b) tax residents of certain jurisdictions. In each case, the Fund-Blocker structure can eliminate the restriction. The Fund-Blocker structure will only be used in those jurisdictions where to do so would be consistent with applicable laws in such jurisdictions.

24. Each Fund may invest in more than one Blocker for purposes of making underlying investments.

25. A Blocker will only purchase securities of an Issuer which the Funds are permitted to purchase directly, under applicable securities law.

26. No Issuer will be related to the Filer or the Funds (other than through indirect ownership by the Funds in securities of the Issuer).

27. Though each Fund will indirectly bear additional costs resulting from use of Blockers (mainly in the form of incorporation and maintenance costs of the Blocker, as well as the costs of preparing its annual financial statements), the cost savings and/or other benefits resulting from the Fund-Blocker structure are expected to significantly exceed such additional costs.

28. For the purpose of implementing the Fund-Blocker structure, the Filer shall ensure that:

    (a) prior to a Fund entering into a transaction with a Blocker, the Filer's Investment Committee will review the pricing terms to ensure that the transaction will be conducted at fair market value;

    (b) the arrangements between or in respect of each Fund and a Blocker will not result in any duplication of management fees or incentive fees;

    (c) the offering document (if applicable) of each Fund will describe the Fund's intent, or ability, to invest in securities of one or more Blockers; and

    (d) the investments by the Funds in a Blocker represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the Funds.

29. Each Fund, either individually or together with other Funds, may own more than 20% of the voting securities of a Blocker through which it makes an investment in an underlying Issuer and therefore will be a "substantial security holder" (as that term is defined in the OSA) of the Blocker. Accordingly, absent the Substantial Security Holder Relief, each Fund that is a mutual fund will be prohibited by paragraph 111(2)(b) and subsection 111(4) of the OSA and the equivalent securities legislation in the other Applicable Jurisdictions, from making and holding, respectively, investments in Blockers.

30. The directors and officers of each Blocker will be comprised solely of individuals who are directors, officers, employees and/or agents of the Filer and/or an affiliate of the Filer. Some or all of such individuals are expected to be a "responsible

person" of the Funds as defined in section 13.5(1) of NI 31-103. Accordingly, absent the Consent Relief, each investment by a Fund using a Blocker will contravene paragraph 13.5(2)(a) of NI 31-103.

31. In the absence of this Decision, pursuant to the Legislation, the Funds would be precluded from implementing the Fund-Blocker structure.

32. The Fund-Blocker structure represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of each Fund.

Decision

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

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

(a) securities of the Funds are distributed in Canada solely pursuant to exemptions from the prospectus requirements in accordance with National Instrument 45-106 *Prospectus Exemptions*;

(b) prior to the Funds entering into a transaction with a Blocker, the Filer's Investment Committee will review the pricing terms to ensure that the transaction will be conducted at fair market value;

(c) each Issuer is arm's length from the Filer and the Funds;

(d) prior to a Fund entering into a transaction with a Blocker, the Filer will make reasonable efforts to ensure that the proposed transaction:

(i) is entered into free of influence by an entity related to the Filer and without taking into account any consideration relevant to an entity related to the Filer;

(ii) is uninfluenced by considerations other than the best interests of the Fund;

(iii) is in compliance with the written policies and procedures of the Filer; and

(iv) achieves a fair and reasonable result for the Fund;

(e) the Fund-Blocker structure is compatible with the fundamental investments objectives of each Fund;

(f) the arrangements between or in respect of each Fund and a Blocker will not result in any duplication of management fees or incentive fees;

(g) for each Fund that is a mutual fund, the product of:

(i) the number of voting securities of the Issuer held by the Blocker; and

(ii) the percentage of outstanding shares of the Blocker owned by the Fund and related mutual funds,

does not exceed 20% of the votes attached to all of the outstanding voting securities of the Issuer;

(h) the number of voting securities of an Issuer held by all Blockers invested in that Issuer will together not exceed 20% of the votes attached to all of the outstanding voting securities of the Issuer; and

(i) all new investors in the Funds will consent generally to the Fund-Blocker structure through the investment management agreement or subscription agreement or other document.

As to the Consent Relief:

"Neeti Varma"
Manager (Acting)
Investment Funds and Structured Products
Ontario Securities Commission

As to the Substantial Security Holder Relief:

"Lawrence P. Haber"
Commissioner
Ontario Securities Commission

"Janet Leiper"
Commissioner
Ontario Securities Commission

2.1.2 BMO Nesbitt Burns Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to commodity pools for extension of the lapse dates of their prospectus – Filer will file simplified prospectus, annual information form and fund facts documents instead of a long form prospectus due to alternative fund amendments – Extensions of lapse date will not affect the currency or accuracy of the information contained in the current prospectuses.

Applicable Legislative Provisions

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

January 14, 2019

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
BMO NESBITT BURNS INC.
(the Filer)

AND

BMO FINTECH SECTOR TACTIC™ FUND,
BMO CANADIAN TOP 15 SMALL CAP TACTIC™ FUND AND
BMO U.S. TOP 15 SMALL CAP TACTIC™ FUND
(the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limit for the renewal of the long form prospectus of the Funds dated January 17, 2018, as amended and restated on February 1, 2018 (the **Prospectus**) be extended to those time limits that would apply if the lapse date of the Prospectus was February 28, 2019 (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

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

2. The Filer is registered as an investment fund manager under the securities legislation of each of Ontario, Québec and Newfoundland and Labrador.

3. The Filer is the investment fund manager of the Funds.

4. Each of the Funds is an alternative mutual fund established under the laws of Ontario, and is a reporting issuer as defined in the securities legislation of each of the Canadian Jurisdictions.

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

6. The Funds currently distribute securities in the Canadian Jurisdictions under the Prospectus.

7. Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the **Act**), the lapse date of the Prospectus is January 17, 2019 (the **Lapse Date**). Accordingly, under subsection 62(2) of the Act, the distribution of securities of each of the Funds would have to cease on the Lapse Date unless: (i) the Funds file a *pro forma* prospectus at least 30 days prior to the Lapse Date; (ii) the final prospectus is filed no later than 10 days after the Lapse Date; and (iii) a receipt for the final prospectus is obtained within 20 days of the Lapse Date.

8. At the time the Prospectus was filed, the Funds were considered "commodity pools" pursuant to National Instrument 81-104 *Commodity Pools*. Pursuant to amendments to National Instrument 81-102 *Investment Funds* (**NI 81-102**) which took effect on January 3, 2019, the Funds are now considered "alternative mutual funds".

9. The process required to comply with the amendments to NI 81-102 for unlisted alternative mutual funds requires the Filer to offer securities of the Funds under a simplified prospectus, annual information form and fund facts documents format, instead of the current long form prospectus format, as required by National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**). The new form of offering documents will require ongoing review by the Filer, and given the time required to perform these tasks accurately, the Filer would benefit from additional time to finalize the simplified prospectus, annual information form and fund facts documents beyond the Lapse Date.

10. The Filer requests an extension of the Lapse Date of the Prospectus to February 28, 2019 in order for the Filer to ensure an orderly transition from the long form prospectus format, as required under NI 41-101, to a simplified prospectus, annual information form and fund facts documents format, as required by the amendments to NI 81-102.

11. It would be more efficient and cost effective for unitholders to extend the Lapse Date of the Prospectus to February 28, 2019, and allowing the Filer to file a simplified prospectus, annual information form and fund facts as required by the amendments to NI 81-102 prior to that date, as opposed to having the Filer file a *pro forma* long form prospectus prior to the original lapse date of January 17, 2019 and a subsequent simplified prospectus, annual information form and fund facts documents prior to July 2019.

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

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

14. New investors in the Funds will receive delivery of the Prospectus.

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

Decision

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

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

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

2.1.3 Caldwell Investment Management Ltd.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Existing and future mutual funds managed by the Filer granted relief from paragraphs 15.3(4)(c) and (f) of NI 81-102 Investment Funds to permit references to FundGrade A+ Awards, FundGrade Ratings, Lipper Awards and Lipper Leader Ratings in sales communications – Relief subject to conditions requiring specified disclosure and the requirement that the FundGrade A+ Awards and Lipper Awards being referenced not have been awarded more than 365 days before the date of the sales communication.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 15.3(4)(c) and (f), 19.1.

January 17, 2019

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
CALDWELL INVESTMENT MANAGEMENT LTD.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the "**Application**") from the Filer on behalf of existing and future mutual funds of which the Filer or an affiliate of the Filer is, or in the future will be, the investment fund manager, including Caldwell Balanced Fund, Tactical Sovereign Bond Fund, Caldwell Canadian Value Momentum Fund ("**CCVM**"), Caldwell U.S. Dividend Advantage Fund, Clearpoint Short Term Income Fund and Clearpoint Global Dividend Fund (each a "**Fund**" and collectively, the "**Funds**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for an exemption from the requirements set out in paragraphs 15.3(4)(c) and 15.3(4)(f) of NI 81-102, which provide that a sales communication must not refer to a performance rating or ranking of a mutual fund or asset allocation service unless:

1. the rating or ranking is provided for each period for which standard performance data is required to be given, except the period since the inception of the mutual fund; and

2. the rating or ranking is to the same calendar month end that is:

    a. not more than 45 days before the date of the appearance or use of the advertisement in which it is included, and

    b. not more than three months before the date of first publication of any other sales communication in which it is included;

(together, the "**Exemption Sought**"), to permit the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leader Ratings to be referenced in sales communications relating to the Funds.

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

a. the Ontario Securities Commission is the principal regulator for this Application, and

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

Interpretation

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

Representations

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

The Filer and the Funds

1. The Filer was incorporated under the laws of Ontario on August 23, 1990. The head office, registered office and principal business address of the Filer is located at Suite 1702, 150 King Street West, P.O. Box 47, Toronto, Ontario, M5H 1J9.

2. The Filer is registered as a portfolio manager and investment fund manager in Ontario, Quebec, Alberta, British Columbia, Manitoba and Saskatchewan. The Filer is registered as an investment fund manager in Newfoundland and Labrador.

3. The Filer manages the Funds, which are retail mutual funds, the securities of which are, or will be, qualified for distribution to investors in each of the Jurisdictions pursuant to one or more prospectuses or simplified prospectuses, as the same may be amended or renewed from time to time.

4. Each of the Funds is, or will be, a reporting issuer in each of the Jurisdictions. Each of the Funds is or will be subject to NI 81-102, including Part 15 of NI 81-102, which governs sales communications.

5. The Filer was previously granted exemptive relief on August 3, 2017 from sections 15.3(2), 15.3(4)(c), 15.6(1)(d), 15.8(2)(a.1) and 15.8(3)(a.1) of NI 81-102 with respect to CCVM to permit such Fund, which had not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in their sales communications performance data for the period when such Fund was not a reporting issuer.

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

FundGrade Ratings and FundGrade A+ Awards

7. The Filer wishes to include in sales communications of the Funds references to the FundGrade Ratings and references to the FundGrade A+ Awards where such Fund has been awarded a FundGrade A+ Award.

8. Fundata Canada Inc. ("**Fundata**") is a "mutual fund rating entity" as that term is defined in NI 81-102. Fundata is a leader in supplying mutual fund information, analytical tools, and commentary. Fundata's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.

9. One of Fundata's programs is the FundGrade A+ Awards program. This program highlights funds that have excelled in delivering consistently strong risk-adjusted performance relative to their peers. The FundGrade A+ Awards designate award-winning funds in most individual fund classifications for the previous calendar year, and the awards are announced in January of each year. The categories for fund classification used by Fundata are those maintained by the Canadian Investment Funds Standards Committee ("**CIFSC**") (or a successor to CIFSC), a Canadian organization that is independent of Fundata.

10. The FundGrade A+ Awards are based on a proprietary rating methodology developed by Fundata, the FundGrade Rating system. The FundGrade Rating system evaluates funds based on their risk adjusted performance, measured by three well-known and widely-used metrics: the Sharpe Ratio, the Information Ratio, and the Sortino Ratio. The ratios are calculated for the two through ten year time periods for each fund. When there is more than one eligible series of a fund, an average ratio is taken for each period. The ratios are ranked across all time periods and an overall score is calculated by equally weighting the yearly rankings.

11. The FundGrade Ratings are letter grades for each fund and are determined each month. The FundGrade Ratings for each month are released on the seventh business day of the following month. The top 10% of funds earn an A Grade; the next 20% of funds earn a B Grade; the next 40% of funds earn a C Grade; the next 20% of funds receive a D Grade; and the lowest 10% of funds receive an E Grade. Because the overall score of a fund is calculated by equally weighting

the periodic rankings, to receive an A Grade, a fund must show consistently high scores for all ratios across all time periods.

12. Fundata calculates a grade using only the retail series of each fund. Institutional series or fee-based series of any fund are not included in the calculation. A fund must have at least two years of history to be included in the calculation. Once a letter grade is calculated for a fund, it is then applied to all related series of that fund.

13. At the end of each calendar year, Fundata calculates a "**Fund GPA**" for each fund based on the full year's performance. The Fund GPA is calculated by converting each month's FundGrade Rating letter grade into a numerical score. Each A is assigned a grade of 4.0; each B is assigned a grade of 3.0; each C is assigned a grade of 2.0; each D is assigned a grade of 1.0; and each E is assigned a grade of 0. The total of the grades for each fund is divided by 12 to arrive at the fund's GPA for the year. Any fund earning a GPA of 3.5 or greater earns a FundGrade A+ Award.

14. When a fund is awarded a FundGrade A+ Award, Fundata will permit such fund to make reference to the award in its sales communications.

Lipper Leader Ratings and Lipper Awards

15. The Filer also wishes to include in sales communications of the Funds references to Lipper Leader Ratings (which are performance ratings or rankings for funds issued by Lipper and include the Lipper Ratings for Consistent Return, Lipper Ratings for Total Return, Lipper Ratings for Preservation and the Lipper Ratings for Expense, which are described below) and Lipper Awards (as described below) where such Fund has been awarded a Lipper Award.

16. Lipper, Inc. ("**Lipper**") is a "mutual fund rating entity" as that term is defined in NI 81-102. Lipper is part of the Thomson Reuters group of companies, and is a global leader in supplying mutual fund information, analytical tools, and commentary. Lipper's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.

17. One of Lipper's programs is the Thomson Reuters Lipper Fund Awards program (the "**Lipper Awards**"). This program recognizes funds that have excelled in delivering consistently strong risk-adjusted performance relative to peers and also recognizes fund families with high average scores for all funds within a particular asset class or overall. Currently, the Lipper Awards take place in approximately 23 countries.

18. In Canada, the Lipper Awards include the Lipper Fund Awards and Lipper ETF Awards (which were awarded for the first time in Canada in 2014). For the Lipper Fund Awards, Lipper designates award-winning funds in most individual fund classifications for three, five and ten year periods. For the Lipper ETF Awards, Lipper designates award-winning funds in a number of individual fund classifications for the three year period, and it is expected that awards for the five and ten year periods will be given in the future.

19. The categories for fund classification used by Lipper for the Lipper Awards in respect of Canadian funds are those maintained by the Canadian Investment Funds Standards Committee ("**CIFSC**") (or a successor to the CIFSC), a Canadian organization that is independent of Lipper. Only those CIFSC groups of ten or more unique funds will claim a Lipper Fund Award, and only those CIFSC groups of five or more unique ETFs (each of whom have a minimum of three years of performance history) will claim a Lipper ETF Award.

20. The Lipper Awards are based on a proprietary rating methodology prepared by Lipper, the Lipper Leader Rating System. The Lipper Leader Rating System is a toolkit that uses investor-centred criteria to deliver a simple, clear description of a fund's success in meeting certain goals, such as preserving capital, lowering expenses or building wealth. Lipper Ratings provide an instant measure of a fund's success against a specific set of key metrics, and can be useful to investors in identifying funds that meet particular characteristics.

21. In Canada, the Lipper Leader Rating System includes Lipper Ratings for Consistent Return (reflecting funds' historical risk-adjusted returns relative to funds in the same classification), Lipper Ratings for Total Return (reflecting funds' historical total return performance relative to funds in the same classification), Lipper Ratings for Preservation (reflecting funds' historical loss avoidance relative to other funds in the same classification) and Lipper Ratings for Expense (reflecting funds' expense minimization relative to funds with similar load structures). In each case, the categories for fund classification used by Lipper for the Lipper Leader Ratings are those maintained by CIFSC (or a successor to CIFSC). Lipper Leader Ratings are measured monthly over 36, 60 and 120 month periods, and an overall rating is also measured, which is an unweighted average of the previous three periods. The highest 20% of funds in each category are named Lipper Leaders for that particular rating and receive a score of 5, the next 20% receive a score of 4, the middle 20% are scored 3, the next 20% are scored 2 and the lowest 20% are scored 1.

22. The Lipper Awards, awarded annually in Canada, are based on the Lipper Ratings for Consistent Return measure, which, as generally described above, is a risk-adjusted mutual fund return performance measure used by Lipper that takes into account both short-- and long-term risk-adjusted performance relative to fund classification, together with a measure of a fund's consistency. In respect of the Lipper Awards for Canada, the Lipper Ratings for Consistent Return are measured over the 36, 60 and 120 month periods ending at the end of July of each year. As noted above, the highest 20% of funds in each classification are named Lipper Leaders for Consistent Return, and the highest Lipper Leader for Consistent Return in each applicable fund classification over these periods (currently, in the case of the Lipper ETF Awards, over the 36 month period only) wins a Lipper Award.

23. Lipper Awards are also given to investment fund managers of fund groups: Lipper awards an Asset Class Group Award in the categories of Bond, Equity and Mixed Assets, as well as an Overall Group Award.

Sales Communication Disclosure

24. The FundGrade Ratings fall within the definition of "performance data" under NI 81-102 as they constitute "a rating, ranking, quotation, discussion or analysis regarding an aspect of the investment performance of an investment fund", given that the FundGrade Ratings are based on performance measures calculated by Fundata. The FundGrade A+ Awards may be considered to be "overall ratings or rankings", given that the awards are based on the FundGrade Ratings as described above. Therefore, references to FundGrade Ratings and FundGrade A+ Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of NI 81-102.

25. Paragraph 15.3(4)(c) of NI 81-102 imposes a "matching" requirement for performance ratings or rankings that are included in sales communications for mutual funds. If a performance rating or ranking is referred to in a sales communication, it must be provided for, or "match", each period for which standard performance data is required to be given for the fund, except for the period since the inception of the fund (i.e. for one, three, five and ten year periods, as applicable).

26. While FundGrade Ratings are based on calculations for a minimum of two years through to a maximum of ten years and the FundGrade A+ Awards are based on a yearly average of monthly FundGrade Ratings, specific ratings for the three, five and ten year periods within the two to ten year measurement period are not given. This means that a sales communication referencing FundGrade Ratings cannot comply with the "matching" requirement contained in paragraph 15.3(4)(c) of NI 81-102. Relief from paragraph 15.3(4)(c) of NI 81-102 is, therefore, required in order for the Fund to use FundGrade Ratings in sales communications.

27. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the FundGrade A+ Awards in sales communications for the Funds because it is available only if a sales communication "otherwise complies" with the requirements of subsection 15.3(4) of NI 81-102. As noted above, sales communications referencing the FundGrade A+ Awards cannot comply with the "matching" requirement in subsection 15.3(4) of NI 81-102 because the underlying FundGrade Ratings are not available for the three, five and ten year periods within the two to ten year measurement period for the FundGrade Ratings, rendering the exemption in subsection 15.3(4.1) of NI 81-102 unavailable. Relief from paragraph 15.3(4)(c) of NI 81-102 is, therefore also, required in order for the Funds to reference the FundGrade A+ Awards in sales communications.

28. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. This paragraph provides that in order for a rating or ranking such as a FundGrade A+ Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.

29. Because the evaluation of funds for the FundGrade A+ Awards will be based on data aggregated until the end of December in any given year and the results will be published in January of the following year, by the time a fund receives a FundGrade A+ Award in January, paragraph 15.3(4)(f) of NI 81-102 will only allow the FundGrade A+ Award to be used in an advertisement until the middle of February and in other sales communications until the end of March.

30. The Lipper Leader Ratings are performance ratings or rankings under NI 81-102 and Lipper Awards may be considered to be performance ratings or rankings under NI 81-102 given that the awards are based on the Lipper Leader Ratings as described above. Therefore, references to Lipper Leader Ratings and Lipper Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of NI 81-102.

31. In Canada and elsewhere, Lipper Leader Ratings are calculated only for 36, 60 and 120 month periods and are not calculated for a one year period. This means that a sales communication referencing a Lipper Leader Rating cannot comply with the "matching" requirement contained in paragraph 15.3(4)(c) of NI 81-102 because a rating is not available

for the one year period. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for Funds to reference Lipper Leader Ratings in sales communications.

32. In addition, a sales communication referencing the overall Lipper Leader Ratings and the Lipper Awards, which are based on the Lipper Leader Ratings, must disclose the corresponding Lipper Leader Rating for each period for which standard performance data is required to be given. As noted above, because a rating for the one year period is not available for the Lipper Leader Ratings, sales communications referencing the overall Lipper Leader Ratings or Lipper Awards also cannot comply with the matching requirement contained in paragraph 15.3(4)(c) of NI 81-102.

33. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the overall Lipper Leader Ratings or Lipper Awards in sales communications for the Funds because subsection 15.3(4.1) of NI 81-102 is available only if a sales communication "otherwise complies" with the requirements of subsection 15.3(4) of NI 81-102. As noted above, sales communications referencing the overall Lipper Leader Ratings or Lipper Awards cannot comply with the "matching" requirement in subsection 15.3(4) of NI 81-102 because the underlying Lipper Leader Ratings are not available for the one year period, rendering the exemption in subsection 15.3(4.1) of NI 81-102 unavailable. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for the Funds to reference overall Lipper Leader Ratings and the Lipper Awards in sales communications.

34. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. The paragraph provides that in order for a rating or ranking such as a Lipper Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.

35. Because the evaluation of funds for the Lipper Awards will be based on data aggregated until the end of July in any given year and the results will be published in November of that year, by the time a fund receives an award in November, paragraph 15.3(4)(f) of NI 81-102 will prohibit it from publishing news of the award altogether.

36. The Exemption Sought is required in order for the FundGrade Ratings, FundGrade A+ Awards, Lipper Leader Ratings and Lipper Awards to be referenced in sales communications relating to the Funds.

37. The Filer submits that the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leader Ratings provide important tools for investors, as they provide investors with context when evaluating investment choices. These awards and ratings provide an objective, transparent and quantitative measure of performance that is based on the expertise of FundGrade or Lipper, as applicable, in fund analysis that alleviates any concern that references to them may be misleading and therefore, contrary to paragraph 15.2(1)(a) of NI 81-102.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted to permit the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leader Ratings to be referenced in sales communications relating to a Fund, provided that:

1. the sales communication complies with Part 15 of NI 81-102, other than as set out herein, and contains the following disclosure in at least 10 point type:

    a. the name of the category for which the Fund has received the award or rating;

    b. the number of mutual funds in the category for the applicable period;

    c. the name of the ranking entity, i.e., Fundata or Lipper;

    d. the length of period and the ending date, or, the first day of the period and the ending date on which the FundGrade A+ Award, FundGrade Rating, Lipper Award or Lipper Leader Rating is based;

    e. a statement that FundGrade Ratings or Lipper Leader Ratings are subject to change every month;

    f. in the case of a FundGrade A+ Award or Lipper Award, a brief overview of the FundGrade A+ Award or Lipper Award, as applicable;

g. in the case of a FundGrade Rating (other than FundGrade Ratings referenced in connection with a FundGrade A+ Award) or a Lipper Leader Rating (other than Lipper Leader Ratings referenced in connection with a Lipper Award), a brief overview of the FundGrade Rating or Lipper Leader Rating, as applicable;

h. where Lipper Awards are referenced, the corresponding Lipper Leader Rating that the Lipper Award is derived from is presented for each period for which standard performance data is required other than the one year and since inception periods;

i. where a Lipper Leader Rating is referenced, the Lipper Leader Ratings are presented for each period for which standard performance data is required other than the one year and since inception periods;

j. disclosure of the meaning of the FundGrade Ratings from A to E (e.g., rating of A indicates a fund is in the top 10% of its category) or Lipper Leader Ratings from 1 to 5 (e.g., rating of 5 indicates a fund is in the top 20% of its category), as applicable; and

k. reference to Fundata's website (www.fundata.com) for greater detail on the FundGrade A+ Awards and the FundGrade Ratings or reference to Lipper's website (www.lipperweb.com) for greater detail on the Lipper Awards and Lipper Leader Ratings, which includes the rating methodology prepared by Fundata or Lipper, as applicable;

2. the FundGrade A+ Awards and Lipper Awards being referenced must not have been awarded more than 365 days before the date of the sales communication; and

3. the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leader Ratings being referenced are calculated based on comparisons of performance of mutual funds within a specified category established by the CIFSC (or a successor to the CIFSC).

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

2.1.4 Mackenzie Financial Corporation et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – approval of investment fund mergers – approval required because mergers do not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 Investment Funds – certain terminating funds and continuing funds do not have substantially similar fundamental investment objectives – certain mergers will not be a "qualifying exchange" or a tax-deferred transaction under the Income Tax Act – mergers to otherwise comply with pre-approval criteria, including securityholder vote, IRC approval – securityholders provided with timely and adequate disclosure regarding the mergers.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 5.5(1)(b), 5.7(1)(b), 19.1(2).

January 18, 2019

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

AND

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

AND

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION
(the Filer)

AND

MACKENZIE CANADIAN ALL CAP DIVIDEND FUND,
MACKENZIE CANADIAN ALL CAP DIVIDEND CLASS,
SHORT TERM BOND FUND (PORTICO),
REAL RETURN BOND FUND (PORTICO),
CANADIAN EQUITY CLASS,
NORTH AMERICAN SPECIALTY CLASS,
U.S. AND INTERNATIONAL EQUITY CLASS,
U.S. AND INTERNATIONAL SPECIALTY CLASS AND
U.S. VALUE FUND (LONDON CAPITAL)
(collectively, the Terminating Funds and, each individually, a Terminating Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Terminating Funds, for a decision under the securities legislation of the Jurisdiction (the **Legislation**) approving the proposed reorganization of each of the Terminating Funds with applicable Continuing Funds (each as defined below), pursuant to subsection 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Requested Relief**).

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

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick,

Nova Scotia, Prince Edward Island, Newfoundland and Labrador the Northwest Territories, Nunavut and Yukon (the **Other Jurisdictions**).

Interpretation

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

"Closed and Exempt Mergers" means the following Merger (as defined herein), which involves Series PWX of the Terminating Fund and the Continuing Fund listed below, which is not currently offered for purchase and is not currently qualified for distribution under a simplified prospectus:

Terminating Fund	Continuing Fund
Mackenzie Canadian All Cap Dividend Class Series PWX	Mackenzie Canadian Large Cap Dividend Class Series PWX

"Continuing Funds" means, collectively, Mackenzie Canadian Large Cap Dividend Fund, Mackenzie Canadian Large Cap Dividend Class, Money Market Fund, Core Bond Fund (Portico), Canadian Dividend Class (Laketon), Mackenzie US Mid Cap Growth Class, Global All Cap Equity Class (Setanta) and U.S. Value Fund (Putnam).

"Effective Date" means on or about February 8, 2019, the anticipated effective date of the Proposed Reorganizations.

"Funds" means, collectively, the Terminating Funds and the Continuing Funds.

"Grandfathering Mergers" means the following Mergers, where the series of securities of the Continuing Funds are being created solely to facilitate the Mergers, will not be qualified for distribution under a prospectus and will not be available for purchase subsequent to the Mergers:

Terminating Fund	Continuing Fund
Mackenzie Canadian All Cap Dividend Fund B-Series	Mackenzie Canadian Large Cap Dividend Fund B-Series
Mackenzie Canadian All Cap Dividend Fund Investor Series	Mackenzie Canadian Large Cap Dividend Fund Investor Series
Mackenzie Canadian All Cap Dividend Fund Series J	Mackenzie Canadian Large Cap Dividend Fund Series GJ
Mackenzie Canadian All Cap Dividend Fund Series O	Mackenzie Canadian Large Cap Dividend Fund Series GO
Mackenzie Canadian All Cap Dividend Fund Series O6	Mackenzie Canadian Large Cap Dividend Fund Series GO5
Mackenzie Canadian All Cap Dividend Class Series J	Mackenzie Canadian Large Cap Dividend Class Series GJ
Mackenzie Canadian All Cap Dividend Class Series O	Mackenzie Canadian Large Cap Dividend Class Series GO
Mackenzie Canadian All Cap Dividend Class Series O6	Mackenzie Canadian Large Cap Dividend Class Series GO5
Mackenzie Canadian All Cap Dividend Class Series PWX8	Mackenzie Canadian Large Cap Dividend Class Series PWX8

"Proposed Reorganizations" means each of the proposed mergers of the Terminating Funds into the applicable Continuing Funds.

"Taxable Mergers" means the following Mergers:

a) the merger of Mackenzie Canadian All Cap Dividend Class into Mackenzie Canadian Large Cap Dividend Class;

b) the merger of Short Term Bond Fund (Portico) into Money Market Fund;

c) the merger of Real Return Bond Fund (Portico) into Core Bond Fund (Portico);

d) the merger of Canadian Equity Class into Canadian Dividend Class (Laketon);

e) the merger of North American Specialty Class into Mackenzie US Mid Cap Growth Class;

f) the merger of U.S. and International Equity Class into Global All Cap Equity Class (Setanta);

g) the merger of U.S. and International Specialty Class into Global All Cap Equity Class (Setanta); and

h) the merger of U.S. Value Fund (London Capital) into U.S. Value Fund (Putnam).

Representations

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

The Filer

1. The Filer is a corporation governed by the laws of Ontario and is registered as follows: as an investment fund manager in Ontario, Quebec and Newfoundland and Labrador; as a portfolio manager and exempt market dealer in Ontario and the Other Jurisdictions; as an adviser in Manitoba; and as a commodity trading manager in Ontario.

2. The Filer, with its head office in Toronto, Ontario, is the trustee and manager of the Funds.

The Funds

3. Each of Mackenzie Canadian All Cap Dividend Class, Mackenzie Canadian Large Cap Dividend Class and Mackenzie US Mid Cap Growth Class (collectively, the **Mackenzie Corporate Class Funds**) are separate classes of securities of Mackenzie Financial Capital Corporation (Capitalcorp) and each of Canadian Equity Class, North American Specialty Class, U.S. and International Equity Class, U.S. and International Specialty Class, Canadian Dividend Class (Laketon) and Global All Cap Equity Class (Setanta) (collectively, the **Quadrus Corporate Class Funds** and, together with the Mackenzie Corporate Class Funds, the **Corporate Class Funds**) are separate classes of securities of Multi-Class Investment Corp. (**Multi-Class Corp.** and, together with Capitalcorp, the **Corporations**). The remaining Funds are unit trusts (collectively, the **Trust Funds**).

4. The Trust Funds are structured as unit trusts established under the laws of Ontario. The Corporate Class Funds are separate classes of securities of the Corporations, both mutual fund corporations governed by the laws of Ontario. The Terminating Funds and Continuing Funds are each reporting issuers under the securities legislation of the Jurisdictions. Neither the Filer nor the Funds are in default of securities legislation in the Jurisdictions, as applicable.

5. Other than circumstances in which the securities regulatory authority of a Jurisdiction has expressly exempted a Fund therefrom, each of the Funds follows the standard investment restrictions and practices established under NI 81-102.

6. Securities of the Funds are currently qualified for sale under one or more of the simplified prospectus, annual information form and fund facts each dated September 28, 2018, as amended (collectively, the **Mackenzie Mutual Funds Offering Documents**), the simplified prospectus, annual information form and fund facts each dated June 28, 2018, as amended (collectively, the **Quadrus Offering Documents**) and/or the simplified prospectus, annual information form and fund facts each dated November 23, 2017, as amended (collectively, the **Laurentian Offering Documents**, and, together with the Mackenzie Mutual Funds Offering Documents and the Quadrus Offering Documents, the **Offering Documents**). Certain securities of certain Funds are offered only on an exempt distribution basis or are no longer available for purchase; for example, B-series and Series O and O6 securities of certain Funds have never been or are no longer qualified for distribution under a prospectus.

7. The net asset value for each class or series of the Funds, as applicable, is calculated on a daily basis in accordance with the Funds' valuation policy and as described in the applicable Offering Documents.

Reasons for the Requested Relief

8. Approval of the Proposed Reorganizations is required because:

   (a) the fundamental investment objectives of the Continuing Funds are not, or may be considered not to be, "substantially similar" to the investment objectives of their corresponding Terminating Funds;

   (b) certain Mergers will not be completed as a "qualifying exchange" or a tax-deferred transaction under the *Income Tax Act* (Canada) (the **Tax Act**) (collectively, the **Taxable Mergers**); and

   (c) as described below, the materials sent to certain securityholders of the Terminating Funds in respect of certain Mergers did not include the current simplified prospectus or the most recently filed fund facts documents for the series of the Continuing Funds into which the applicable series of the Terminating Funds are merging because either:

      (i) the applicable series of the Continuing Funds are being created solely to facilitate the Mergers, will not be qualified for distribution under a prospectus and will not be available for sale subsequent to the Mergers (the **Grandfathering Mergers**); or

      (ii) the applicable series of the Continuing Funds are not currently offered for purchase and are not currently qualified for distribution under a prospectus, as is the case with the series of the Terminating Fund merging into these series (the **Closed and Exempt Mergers**).

9. Pursuant to the Proposed Reorganizations, securityholders of each of the Terminating Funds would become securityholders of the applicable Continuing Fund, as follows (each a **Merger** and collectively, the **Mergers**):

Terminating Fund	Continuing Fund
Mackenzie Canadian All Cap Dividend Fund	Mackenzie Canadian Large Cap Dividend Fund
Mackenzie Canadian All Cap Dividend Class	Mackenzie Canadian Large Cap Dividend Class
Short Term Bond Fund (Portico)	Money Market Fund
Real Return Bond Fund (Portico)	Core Bond Fund (Portico)
Canadian Equity Class	Canadian Dividend Class (Laketon)
North American Specialty Class	Mackenzie US Mid Cap Growth Class
U.S. and International Equity Class	Global All Cap Equity Class (Setanta)
U.S. and International Specialty Class	Global All Cap Equity Class (Setanta)
U.S. Value Fund (London Capital)	U.S. Value Fund (Putnam)

10. Except as noted above, the Proposed Reorganizations will comply with all other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

11. The Filer has determined that there are no Continuing Funds for which a Proposed Reorganization will be a "material change". However, Continuing Fund securityholder approval is required for Mackenzie Canadian Large Cap Dividend Class, Canadian Dividend Class (Laketon), Mackenzie US Mid Cap Growth Class and Global All Cap Equity Class (Setanta) pursuant to section 170(1)(g) of the *Business Corporations Act* (Ontario).

12. As required by National Instrument 81-107 *Independent Review Committee for Investment Funds*, the Independent Review Committee (**IRC**) has been appointed for the Funds. The Filer presented the terms of the Proposed Reorganizations to the IRC for a recommendation. The IRC reviewed the Proposed Reorganizations and provided a positive recommendation for each of the Proposed Reorganizations, having determined that the Proposed Reorganizations, if implemented, would achieve a fair and reasonable result for each of the Funds and their respective securityholders.

13. In accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure*, a press release describing the Proposed Reorganizations was issued and filed on SEDAR on September 21, 2018 for each of Mackenzie Funds, Quadrus Group of Funds and Laurentian Group of Funds. A material change report and a simplified prospectus and annual information form, or amendments to the applicable simplified prospectus and annual information form, as

applicable, as well as revised fund facts of the Terminating Funds, which give notice of the Proposed Reorganizations, each dated September 28, 2018, were filed on SEDAR for each of Mackenzie Funds, Quadrus Group of Funds and Laurentian Group of Funds.

14. A notice and access document (including a notice of meeting), management information circular, proxy and fund facts of the applicable series (except as described in paragraph 17) of the Continuing Fund (**Meeting Materials**) were mailed or otherwise made available to securityholders of the Terminating Fund on December 17, 2018 and were filed on SEDAR on December 18, 2018.

15. The Meeting Materials describe all of the relevant facts concerning the Proposed Reorganizations relevant to each securityholder, including the differences between investment objectives, strategies and fee structures of the Terminating Funds and the Continuing Funds, the IRC's recommendations of the Proposed Reorganizations, and income tax considerations so that securityholders of the Terminating Funds and, where applicable, the Continuing Funds, may consider this information before voting on a Proposed Reorganization. The Meeting Materials also describe the various ways in which securityholders can obtain a copy of the simplified prospectus and annual information form of the Continuing Funds, as well as the most recent interim and annual financial statements and management reports of fund performance for the Continuing Funds, at no cost.

16. Fund facts relating to the applicable series of each Continuing Fund were mailed to securityholders of the corresponding series of each Terminating Fund in all instances other than in respect of the Grandfathering Mergers and the Closed and Exempt Mergers. In order to effect the Mergers relating to these series of the Terminating Funds, securities of the applicable series of the Continuing Funds will be distributed to securityholders of the Terminating Funds in reliance on the prospectus exemption contained in section 2.11 of National Instrument 45-106 *Prospectus Exemptions*.

17. In respect of the Grandfathering Mergers and the Closed and Exempt Mergers, because a current simplified prospectus and fund facts document are not available for the applicable series of the Continuing Funds, securityholders of each of the corresponding series of the Terminating Funds were sent fund facts relating to series A securities of the applicable Continuing Fund, or, where appropriate, another series of securities of the applicable Continuing Fund.

18. The Filer will pay for the costs of the proposed Mergers. These costs consist mainly of brokerage charges associated with the trades that occur both before and after the date of the proposed Mergers and legal, proxy solicitation, printing, mailing and regulatory fees. There are no charges payable by securityholders of the Terminating Funds who acquire securities of the corresponding Continuing Funds as a result of the Proposed Reorganizations.

19. Securityholders of the Terminating Funds and, where applicable, of the Continuing Funds, will be asked to approve the Proposed Reorganizations at special meetings of securityholders scheduled to be held on or about January 21, 2019.

20. The Taxable Mergers will be effected on a taxable basis, which the Filer has determined will be in the overall best interests of the investors of the Terminating Funds and the Continuing Funds given the investment mandates and applicable portfolio management teams of the Continuing Funds. Effecting the Taxable Mergers on a taxable basis will preserve, where applicable, any unused tax losses of the Continuing Fund, which would otherwise expire upon implementation of the Taxable Merger on a tax deferred basis and therefore would not be available to shelter income and capital gains realized by the Continuing Fund in future years.

21. Following the implementation of the Proposed Reorganizations, all systematic plans that were established with respect to the Terminating Funds will be re-established in the Continuing Fund, either on a series-for-series basis or into a similar series with substantially similar fees, unless securityholders advise the Filer otherwise or unless otherwise noted in the management information circulars.

22. Securityholders may change or cancel any systematic plan at any time as long as the Filer receives at least three business days' notice and securityholders of the Terminating Funds who wish to establish one or more systematic plans in respect of their holdings in the Continuing Fund may do so following the implementation of the Proposed Reorganizations.

Proposed Reorganizations Steps

23. If the necessary approvals are obtained, the Filer will carry out the following steps to complete the Proposed Reorganizations:

    (a) Procedure for the Merger of a Trust Fund into another Trust Fund:

        (i) Prior to effecting the Mergers, if required, each Trust Fund that is a Terminating Fund (each, a **Terminating Trust Fund**) will sell any securities in its portfolio that do not meet the investment

objectives and investment strategies of the applicable Continuing Fund that is a Trust Fund (each, a **Continuing Trust Fund**) and purchase other securities so that, as of the Effective Date, the portfolio of each Terminating Trust Fund is substantially similar to that of the applicable Continuing Trust Fund. As a result, some of the Terminating Trust Funds may temporarily hold cash, money market instruments or investments that are not consistent with their investment objectives, and may not be fully invested in accordance with their investment objectives for a brief period of time prior to the Mergers being effected.

(ii) The value of each Terminating Trust Fund's portfolio and other assets will be determined at the close of business on the Effective Date in accordance with the constating documents of the applicable Terminating Trust Fund.

(iii) Each Continuing Trust Fund will acquire the investment portfolio and other assets of the applicable Terminating Trust Fund in exchange for securities of the Continuing Trust Fund.

(iv) Each Continuing Trust Fund will not assume any liabilities of the applicable Terminating Trust Fund and the Terminating Trust Fund will retain sufficient assets to satisfy its estimated liabilities, if any, as of the effective date of the applicable Merger.

(v) Each Terminating Trust Fund will distribute a sufficient amount of its net income and net realized capital gains, if any, to securityholders to ensure that it will not be subject to tax under Part I of the Tax Act for its current tax year.

(vi) The securities of each Continuing Trust Fund received by the applicable Terminating Trust Fund will have an aggregate net asset value equal to the value of the portfolio assets and other assets that the Continuing Trust Fund is acquiring from the Terminating Trust Fund, and the securities of the Continuing Trust Fund will be issued at the applicable series net asset value per security as of the close of business on the Effective Date.

(vii) Immediately thereafter, securities of each Continuing Trust Fund received by the applicable Terminating Trust Fund will be distributed to securityholders of the Terminating Trust Fund, as proceeds of redemption of their securities in the Terminating Trust Fund on a dollar-for-dollar and series by series basis.

(viii) As soon as reasonably possible following the Mergers, the Terminating Trust Funds will be wound up.

(b) Procedure for the Merger of a Corporate Class Fund into another Corporate Class Fund:

(i) Prior to effecting the Mergers, if required, the Corporations will sell any securities in the portfolio of each Terminating Fund that is a Corporate Class Fund (each a **Terminating Corporate Class Fund**) that do not meet the investment objectives and investment strategies of the applicable Continuing Fund that is a Corporate Class Fund (each, a **Continuing Corporate Class Fund**) and purchase other securities so that, as of the effective date of the Mergers, the portfolio of each Terminating Corporate Class Fund is substantially similar to that of the applicable Continuing Corporate Class Fund. As a result, the portfolios of some of the Terminating Corporate Class Funds may temporarily hold cash, money market instruments or investments that are not consistent with their investment objectives, and may not be fully invested in accordance with their investment objectives for a brief period of time prior to the Mergers being effected.

(ii) Each Terminating Corporate Class Fund may pay taxable dividends and/or capital gains dividends to its securityholders, but only to the extent required to manage the tax liability of the Corporations in a manner that the Board of Directors of the Corporations, in consultation with the Filer, determines to be fair and reasonable.

(iii) The value of each Terminating Corporate Class Fund's portfolio and other assets will be determined at the close of business on the Effective Date in accordance with the constating documents of the applicable Terminating Corporate Class Fund.

(iv) The value of each Continuing Corporate Class Fund's portfolio and other assets will be determined at the close of business on the Effective Date in accordance with the constating documents of the applicable Terminating Corporate Class Fund.

(v) The Continuing Corporate Class Fund will not assume any liabilities of the applicable Terminating Corporate Class Fund and the Terminating Corporate Class Fund will retain sufficient assets to satisfy its estimated liabilities, if any, as of the Effective Date.

(vi) All of the issued and outstanding securities of each Terminating Corporate Class Fund will be exchanged for securities of each applicable Continuing Corporate Class Fund on a dollar-for-dollar and series-by-series basis, so that securityholders of each Terminating Corporate Class Fund become securityholders of each applicable Continuing Corporate Class Fund.

(vii) As soon as reasonably possible following the Mergers, the Corporations will cancel the securities of the Terminating Corporate Class Funds.

24. Securityholders in the Terminating Funds will continue to have the right to redeem their securities or exchange their securities for securities of any other mutual fund of the Filer at any time up to the close of business on the business day before the Effective Date. Securityholders of the Terminating Funds that switch their units for securities of other mutual funds of the Filer will not incur any charges other than switch fees, if applicable, as described in each Terminating Fund's simplified prospectus. Securityholders who redeem units may be subject to redemption charges.

25. Following the implementation of the Proposed Reorganizations, the Continuing Trust Funds will continue as publicly offered open-ended mutual funds offering securities in the Jurisdictions and the Continuing Corporate Class Funds will continue as classes of the Corporations.

26. Following the approval of the Proposed Reorganizations, a press release and material change report announcing the results of the securityholder meetings in respect of the reorganization of the Terminating Funds will be issued and filed.

27. No sales charges will be charged by the Filer to investors or to the Terminating Funds or Continuing Funds in connection with the acquisition by the Continuing Funds of the investment portfolio of the applicable Terminating Funds.

28. The assets of each Terminating Fund to be acquired by the applicable Continuing Fund in order to effect the Mergers are currently, or will be, acceptable, on or prior to the Effective Date, to the portfolio manager(s) of the applicable Continuing Fund and are, or will be, consistent with the investment objectives of the Continuing Fund.

Proposed Reorganizations Benefits

29. The Filer believes that the Proposed Reorganizations are beneficial to securityholders of the Terminating Funds and the Continuing Funds for the following reasons:

(i) **Flexible investment mandate of the Continuing Funds:** In certain cases, the Continuing Funds provide a broader, more diversified and/or more flexible mandate that the Filer believes provides those Continuing Funds with broader investment opportunities that can lead to increased diversification, more balanced exposure and/or greater return potential.

(ii) **Reduction of duplication:** In certain cases, the Mergers are being proposed in part to reduce duplication because the Continuing Funds and the Terminating Funds have similar, but not substantially similar, investment objectives.

(iii) **Better past performance of the Continuing Funds:** In certain cases, the Continuing Funds have had better past performance (although past performance is not a guarantee of future returns and may not be repeated).

(iv) **Better future return potential:** The Mergers are being proposed to reflect the Filer's belief that the Continuing Funds will provide better return potential over the long term.

(v) **Fees:** The combined management fees and fixed administration fees will be the same or lower for the Continuing Funds.

General

30. If the Proposed Reorganizations are approved, they will be implemented after the close of business on the Effective Date. If the Proposed Reorganizations are not approved, the Terminating Funds will continue to be offered for distribution.

Decision

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

The decision of the Principal Regulator under the Legislation is that the Requested Relief is granted, provided that the Filer obtains the prior approval of the securityholders of the Terminating Funds and, where applicable, the approval of securityholders of the Continuing Funds, for the Proposed Reorganizations at a special meeting held for that purpose.

"Stephen Paglia"
Manager, Investment Funds and Structured Products
Ontario Securities Commission

2.1.5 FundSERV Inc.

Headnote

Section 6.1 of NI 24-102 – exemption granted from the requirement in section 4.4(2) of NI 24-102 that a board committee be chaired by an individual who is independent of the clearing agency – exemptions also granted from section 4.4(4) and paragraph 4.3(3)(a) of NI 24-102 relating to requirements for the audit or risk committee and written policies and procedures, subject to the term and condition that the two requirements are met in 12 months – Fundserv is unique due to its limited functions as a clearing agency.

Rules Cited

National Instrument 24-102 Clearing Agency Requirements, ss. 4.3(3)(a), 4.4(2), 4.4(4), 6.1.

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

AND

IN THE MATTER OF
FUNDSERV INC.
(the Filer)

DECISION

Background

The Ontario Securities Commission (**OSC**) has received an application (**Application**) from the Filer for a decision, pursuant to section 6.1 of NI 24-102 *Clearing Agency Requirements* (**NI 24-102**), providing exemptions from the following requirements of NI 24-102 on either a permanent or temporary basis, as the case may be:

(a) from the requirement in subsection 4.4(2) that each committee of the board of directors of the Filer (**Board**) be chaired by an individual who is independent of the Filer (**Committee Chair Requirement**);

(b) for a period of twelve months, from the requirement in subsection 4.4(4) that the Filer's Audit/Finance/Risk Committee (**AFR Committee**) have appropriate representation by individuals who are independent of the Filer and who are not employees or executive officers of a participant of the Filer or their immediate family members (**AFR Committee Requirement**); and

(c) for a period of twelve months, from the requirement in paragraph 4.3(3)(a) that the chief compliance officer of the Filer establish, implement, maintain and enforce written policies and procedures to identify and resolve conflicts of interest and ensure that the Filer complies with securities legislation (**Compliance Manual Requirement**).

Interpretation

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

Representations

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

1. The Filer is a corporation continued under the federal laws of Canada, with its head office located in Toronto.

2. For over 25 years, the Filer has been offering electronic business services to the investment industry. The Filer's core service is its infrastructure for the placement and reconciliation of orders for mutual funds and other investment products. The Filer offers centralized payment exchange facilities to its participants and, for those who choose to settle orders on a net basis, through payment exchange currently handled by a Canadian chartered bank.

3. The Filer operates on a cost-recovery basis, serving more than 700 organizations and their business units, and provides online access to over 80,000 active fund codes.

4. Pursuant to an order dated April 10, 2012 (the **Recognition Order**) issued pursuant to subsection 21.2(1) of the Act, the Filer was recognized as a clearing agency and became subject to the terms and conditions of the Recognition Order.

5. On February 17, 2016, NI 24-102 and Companion Policy 24-102CP *Clearing Agency Requirements* became effective.

6. Although a recognized clearing agency under subsection 21.2(1) of the Act, the Filer is not a central counterparty, a central securities depository or a securities settlement system as such terms are defined in NI 24-102 and therefore, all parts of NI 24-102 except for Part 3 apply to the Filer, in addition to the conditions of the Recognition Order.

7. Part 4 of NI 24-102 provides for more specific requirements in respect of the governance structure of the Filer than the Recognition Order.

8. Since the Filer became aware of the application of NI 24-102 to the Filer, the Filer has been working diligently with staff of the OSC to determine an appropriate regulatory solution that would allow the Filer to become fully compliant with NI 24-102.

The Board and Board Committees

9. The Filer is owned by 10 shareholders each holding 10% of the outstanding shares of the Filer. The Filer's shareholders are comprised of major investment industry participants in Canada and include investment fund managers, life insurance companies, service providers, distributors and a self-regulatory organization.

10. Pursuant to the Filer's shareholder agreement, each of the above noted shareholders nominates one director to the Filer's Board. Additionally, the shareholder agreement permits up to four additional directors to be elected by the shareholders.

11. These four additional director positions have typically been filled by individuals who are not employed by a shareholder of the Filer, and therefore have been considered "independent"; however, these individuals may be employed by a firm that is a "participant" of the Filer as that term is defined in NI 24-102. These directors are referred to as the "**Non-Shareholder Directors**".

12. Currently, the Board consists of 10 nominees from the Filer's shareholders and three Non-Shareholder Directors. One Non-Shareholder Director position is currently vacant.

13. The Filer's shareholder nominee directors include senior individuals at some of the largest participants in the Canadian investment industry, including, but not limited to, some of Canada's largest mutual fund manufacturers, integrated fund manufacturers/distributors, and the industry's regulatory and standard setting organization, Investment Industry Regulatory Organization of Canada. These shareholder nominee directors provide their expertise and are essential in assisting the Filer achieve its mission of providing a reliable and resilient value-added network with a variety of application services for business-to-business initiatives. These services minimize risk and promote timely and automated interactions that reduce costs and improve the ease of doing business within the Canadian investment industry. The Filer continuously draws on its shareholder nominee directors and their internal resources, and attributes much of its success, efficiency and positive impact on the market to this approach.

14. The directors of the Filer have a variety of skill sets and backgrounds, making some more suitable to chair certain committees than others. Absent relief from the Committee Chair Requirement, the Filer may be required to appoint as chair of a Board committee an individual who, while considered independent, is not the individual best suited for the role. Further, this requirement will make it more difficult for the Filer to achieve its other obligation under subsection 4.4(2) of NI 24-102 of appointing a sufficiently knowledgeable person as chair of each Board committee. Accordingly, the Filer submits relief should be granted from this provision to allow it to continue to appoint a shareholder nominee director to the role of chair of a Board committee.

AFR Committee

15. Currently, the Filer's AFR Committee does not meet the AFR Committee Requirement since all of its members are employees or executive officers of participants of the Filer.

16. The Filer is actively searching for an additional director to fill the Non-Shareholder Director vacancy. Once appointed, that director will also sit on the AFR Committee. Due to the Filer's dominant presence in the investment industry, its open access model, and the inclusive definition of participant in NI 24-102, it will take some time to identify a candidate that has the requisite skill set and knowledge required for the position, and that is not employed by a participant of the Filer, in compliance with NI 24-102.

17. Ultimately, the Filer believes a 12 month exemption from the requirements will help the Filer locate a suitable Board candidate who will also sit on the AFR Committee in order to allow it to meet the AFR Committee Requirement.

Compliance Manual

18. The Filer is also actively working towards complying with the Compliance Manual Requirement, and fully expects to comply within 12 months.

19. Paragraph 4.3(3)(a) of NI 24-102 requires that a chief compliance officer establish, implement, maintain and enforce written policies and procedures to identify and resolve conflicts of interest and ensure that the clearing agency complies with securities legislation.

20. Currently, the Filer's Chief Operating Officer also acts as chief compliance officer in compliance with the requirements of NI 24-102.

21. The chief compliance officer is overseeing the development of a compliance manual that will include the requisite policies, procedures and processes for monitoring compliance with applicable securities laws, including NI 24-102 and the Recognition Order. Further, it will include policies on how the Filer manages conflicts of interest and reports to the Board and the OSC, as required.

22. The Filer monitors and enforces compliance with securities laws, including the Recognition Order, and the Filer's written policies and procedures as they currently exist.

23. Other than as set out herein, the Filer is in compliance with Part 4 of NI 24-102 and applicable securities laws, including the Recognition Order, and the governance structure of the Filer and its Board operations and composition is in compliance with the conditions of the Recognition Order, which provides, among other things, specific governance conditions to be adhered to.

Decision

UPON considering the Application and representations made by the Filer;

AND UPON the Director being satisfied to do so would not be prejudicial to the public interest;

IT IS ORDERED by the Director pursuant to section 6.1 of NI 24-102 that the Filer is exempted from the Committee Chair Requirement.

IT IS ALSO ORDERED by the Director pursuant to section 6.1 of NI 24-102 that the Filer is exempted from the AFR Committee Requirement and the Compliance Manual Requirement on the term and condition that the said two requirements are met by May 31, 2019.

DATED this 7th day of June, 2018.

"Susan Greenglass"
Director, Market Regulation Branch
Ontario Securities Commission

2.1.6 Macquarie Capital Markets Canada Ltd.

Headnote

Application for a ruling pursuant to section 74 of the Securities Act granting relief from the dealer registration requirement in section 25 of the OSA to allow the Filer, an investment dealer and member of the Investment Industry Regulatory Organization of Canada (IIROC), to use employees of a Designated Foreign Affiliate of the Filer for After-Hours Trading in securities on the Bourse de Montréal Inc. – Relief granted, subject to terms and conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1), 74(1).

January 25, 2019

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
MACQUARIE CAPITAL MARKETS CANADA LTD.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Designated Foreign Affiliate Employees (as defined below) of the Filer, when conducting Extended Hours Activities (as defined below) on the Bourse de Montréal Inc. (the **MX**), from the dealer registration requirement in the Legislation, subject to the terms and conditions set out below (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation formed under the laws of Ontario. The head office of the Filer is located in Toronto, Ontario.

2. The Filer is registered as an investment dealer under the securities legislation of all the provinces of Canada; is registered as a futures commission merchant under the commodity futures legislation of Ontario and Manitoba; and is registered as a derivatives dealer under the derivatives legislation of Québec.

3. The Filer is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**) and an approved participant of the MX.

4. The Filer is not in default of securities or commodity futures legislation in any jurisdiction of Canada.

5. Macquarie Bank Limited (**MBL**) is a corporation incorporated in Australia. The head office of MBL is located in Sydney, Australia.

6. The Filer and MBL are each wholly-owned (indirect) subsidiaries of the same ultimate parent entity, Macquarie Group Limited (**MGL**).

7. MGL carries on business in the United Kingdom and Australia.

8. MBL is an Australia-based financial service provider, which is authorized and regulated by the Australian Prudential Regulation Authority (**APRA**). MBL is also authorized and regulated by the Australian Securities & Investments Commis-sion pursuant to an Australian Financial Services License (**AFSL**).

9. MBL carries on business in the United Kingdom through a branch office, Macquarie Bank Limited (London Branch) (**MBL London** and, together with MBL, the **Designated Foreign Affiliates**), located in London, England and is authorized and regulated by APRA, and subject to regulation by both the United Kingdom Financial Conduct Authority as well as the United Kingdom Pru-dential Regulation Authority.

10. The Designated Foreign Affiliates hold memberships and/or have third-party clearing relationships

with commodity and financial futures exchanges and clearing associations, including the Australian Stock Exchange. The Designated Foreign Affiliates may also carry positions reflecting trades executed on other exchanges through affiliates and/or third-party clearing brokers.

The MX Extended Trading Hours Amendments

11. The MX, based in Montréal, Québec, operates an exchange for options, commodity futures contracts and commodity futures options, and offers access to trading in those contracts to market participants in Canada.

12. On July 9, 2018, the MX announced that the MX had approved amendments to its rules and procedures in order to accommodate the extension of the MX's trading hours. As a result of these amendments, since October 9, 2018, trading of certain products on the MX now commences at 2:00 a.m. Eastern Time (**ET**) rather than the previous 6:00 a.m. ET.

13. As set out in MX Circular 111-18, in order to accommodate this earlier trading, the MX amended its rules to allow participants on the MX to have employees of affiliated corporations, including foreign affiliates, become an approved person of the MX participant and thus be able to handle trading requests originating from the MX participant's clients or the MX participant on a proprietary basis.

Application of the dealer registration requirement to Designated Foreign Affiliate Employees

14. The Filer is an MX approved participant and the Designated Foreign Affiliates are affiliated entities. The Filer wishes to make use of certain designated employees of the Designated Foreign Affiliates (**Designated Foreign Affiliate Employ-ees**) to handle trading requests on the MX from the Filer's clients and the Filer on a proprietary basis during the MX's extended trading hours from 2:00 a.m. ET to 6:00 a.m. ET each day on which the MX is open for trading (the **Extended Hours Activities**).

15. The dealer registration requirement under the Legislation requires an individual to be registered to act as a dealing representative on behalf of a registered firm. The Exemption Sought is intended to provide the Filer with an exemption from (i) the requirement that the Filer use only registered dealing representatives to conduct the Extended Hours Activities; and (ii) the requirement that the Designated Foreign Affiliate Employees who will be conducting the Extended Hours Activities be registered as dealing representatives of the Filer.

16. The Filer seeks an exemption from the dealer registration requirement because, in the absence of such exemption, each Designated Foreign Affiliate Employee who was to trade on behalf of the Filer would be required to become individually registered and licensed in Canada. The Filer believes this would be duplicative since the Designated Foreign Affiliate Employees are certified under applicable United Kingdom or Australia law, would be supervised by the Filer's Designated Supervisors (as defined below) and would otherwise be subject to the conditions set forth below. The Filer believes the dealer regis-tration requirement would be unduly onerous in light of the limited trading activities the Designated Foreign Affiliate Employees would be conducting on behalf of the Filer during the period from 2:00 a.m. ET to 6:00 a.m. ET.

17. The Filer has also applied to, and obtained from, IIROC an exemption from the registered representative requirements that are found in IIROC Dealer Member Rules 18.2, 18.3 and 500.2 and the requirement to enter into an employee or agent relationship with the person conducting securities related business on its behalf that is found in IIROC Dealer Member Rule 39.3 (the **IIROC Relief**).

18. The IIROC Relief obtained by the Filer is subject to certain conditions, including:

    (a) the Designated Foreign Affiliate Employees must be registered/licensed under the applicable laws of the United King-dom or Australia in a category that per-mits trading the types of products which they will be trading on the MX;

    (b) the Designated Foreign Affiliate Employees will be permitted to accept and enter orders from clients of the Filer or orders from the Filer on a proprietary basis during the period from 2:00 a.m. ET to 6:00 a.m. ET, and will not be permitted to give advice;

    (c) the Filer retains all responsibilities for its client accounts;

    (d) the actions of the Designated Foreign Affiliate Employees will be supervised by specific designated supervisors of the Filer (the **Designated Supervisors**), each of whom is qualified to supervise trading in futures contracts, futures contract options and options;

19. The Filer and each Designated Foreign Affiliate must jointly and severally undertake to ensure IIROC has, upon request, prompt access to the audit trail of all trades that relate to Extended Hours Activities and records relating thereto.

20. The Exemption Sought would apply to Designated Foreign Affiliate Employees who are designated and recorded on a list maintained by the

Designated Supervisors, which list must be provided to IIROC in writing and updated on at least an annual basis.

21. The Filer and each Designated Foreign Affiliate Employee will enter into an agency arrangement pursuant to which the Filer will assume all responsibility for the actions of the Designated Foreign Affiliate Employees and of each Designated Foreign Affiliate that relate to the Filer's clients regarding this trading on MX, and the Filer will acknowledge that it will be liable under IIROC rules for such actions.

22. All MX trading rules will apply to orders entered by the Designated Foreign Affiliate Employees.

23. Other than individual registration, all other existing Canadian regulatory requirements would continue to apply to this arrangement, including without limitation:

    (a) the Filer's client accounts would continue to be carried on the books of the Filer;

    (b) all communications with the Filer's clients will continue to be in the name of the Filer; and

    (c) the Filer's client account monies, security and property will continue to be held by the Filer;

24. The Filer will establish and maintain written policies and procedures that address the performance and supervision requirements relating to MX extended trading hours.

25. The Filer will disclose this extended trading hours arrangement to clients for its MX trading services and provide specific instructions concerning the placement of orders relating thereto.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted so long as:

(a) the Designated Foreign Affiliates and the Designated Foreign Affiliate Employees are registered, licensed, certified or authorized under the applicable laws of the foreign jurisdiction in which the head office or principal place of business of the Designated Foreign Affiliate is located in a category that permits trading the type of products which the Designated Foreign Affiliate Employees will be trading on the MX;

(b) the Designated Foreign Affiliate Employees are permitted to accept and enter orders from clients of the Filer or orders from the Filer on a proprietary basis during the period from 2:00 a.m. ET to 6:00 a.m. ET, and will not be permitted to give advice;

(c) the Filer retains all responsibilities for its client accounts;

(d) the actions of the Designated Foreign Affiliate Employees will be supervised by the Designated Supervisors, each of whom is qualified to supervise trading in futures contracts, futures contract options and options;

(e) the Filer and the Designated Foreign Affiliate Employees enter into an agency arrangement substantially as described in paragraph 21, and such arrangement remains in effect; and

(f) the Filer remains in compliance with the terms and conditions of the IIROC Relief.

"AnneMarie Ryan"
Commissioner
Ontario Securities Commission

"William Furlong"
Commissioner
Ontario Securities Commission

2.1.7 Global Real Estate & E-Commerce Dividend Fund

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Closed-end investment trust exempt from the prospectus requirement in connection with the sale of units redeemed or purchased from existing security holders pursuant to purchase or redemption programs, subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.A. 2000, c. S-4, ss. 110, 144.

Citation: *Re Global Real Estate & E-Commerce Dividend Fund*, 2019 ABASC 9

January 14, 2019

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

AND

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

AND

IN THE MATTER OF
GLOBAL REAL ESTATE &
E-COMMERCE DIVIDEND FUND
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from the requirement to file a prospectus (the **Prospectus Requirement**) in connection with the distribution of units of the Filer (the **Units**) that have been repurchased by the Filer pursuant to the Purchase Programs (as defined below) or redeemed by the Filer pursuant to the Redemption Programs (as defined below) in the period prior to a Conversion (as defined below).

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

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* or MI 11-102 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

1. The Filer is an unincorporated closed-end investment trust established under the laws of Alberta.

2. The Filer is not considered to be a "mutual fund" as defined in the Legislation because the holders of Units are not entitled to receive on demand an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the Filer.

3. The Filer is a reporting issuer in each of the provinces of Canada and is not in default of securities legislation in any jurisdiction of Canada.

4. The Units are listed and posted for trading on the Toronto Stock Exchange (the **TSX**). As of October 25, 2018, the Filer had 7,000,000 Units issued and outstanding.

5. Middlefield Limited (the **Manager**), which is incorporated under the *Business Corporations Act* (Alberta), is the manager and the trustee of the Filer.

6. Subject to applicable law, which may require approval from the holders of the Units (the **Unitholders**) or regulatory approval, the Manager may (a) merge or otherwise combine or consolidate the Filer with any one or more other funds managed by the Manager or an affiliate thereof or (b) where it determines that to do so would be in the best interest of Unitholders, merge or convert the Filer into a listed exchange-traded mutual fund, an open-end mutual fund or a split trust fund (each a **Conversion**).

Mandatory Purchase Program

7. The constating document of the Filer provides that the Filer, subject to certain exceptions and compliance with any applicable regulatory requirements, is obligated to purchase (the **Mandatory Purchase Program**) any Units offered on the TSX or such other exchange or market on which the Units are then listed and primarily traded (the **Exchange**) if, at any time after the closing of the Filer's initial public offering, the price at which Units are then offered for sale on the Exchange is less than 95% of the net asset value of the Filer per Unit, provided that the maximum number of Units that the Filer is required to purchase pursuant to the Mandatory Purchase Program in any calendar quarter is 1.25% of the number of Units outstanding at the beginning of each such period.

Discretionary Purchase Program

8. The constating document of the Filer also pro-vides that the Filer, subject to applicable regulatory requirements and limitations, has the right, but not the obligation, exercisable in its sole discretion at any time, to purchase outstanding Units in the market at prevailing market prices (the **Discretionary Purchase Program** and together with the Mandatory Purchase Program, the **Purchase Programs**).

Monthly Redemptions

9. Subject to the Filer's right to suspend redemp-tions, Units may be surrendered for redemption (the **Monthly Redemption Program**) on the second last business day of each month in order to be redeemed at a redemption price per Unit equal to the Monthly Redemption Price per Unit (as defined in the Filer's long form prospectus dated September 19, 2018 (the **Prospectus**)).

Annual Redemptions

10. Subject to the Filer's right to suspend redemp-tions, Units may be surrendered for redemption (the **Annual Redemption Program**) on the second last business day of April in each year commencing in 2020 at a redemption price per Unit equal to the Redemption Price per Unit (as defined in the Prospectus).

Additional Redemptions

11. At the sole discretion of the Manager and subject to the receipt of any necessary regulatory approvals, the Manager may from time to time allow additional redemptions of Units (**Additional Redemptions** and collectively with the Monthly Redemption Program and the Annual Redemption Program, the **Redemption Programs**), provided that the holder thereof shall be required to use the full amount received on such redemption to purchase treasury securities of a new or existing fund promoted by the Manager or an affiliate thereof then being offered to the public by prospectus.

Resale of Repurchased Units or Redeemed Units

12. Purchases of Units made by the Filer under the Purchase Programs or Redemption Programs will be made pursuant to exemptions from the issuer bid requirements of applicable securities legislation.

13. The Filer wishes to resell, in its sole discretion and at its option, through one or more securities dealers and through the facilities of the Exchange, the Units repurchased by the Filer pursuant to the Purchase Programs (**Repurchased Units**), or redeemed pursuant to the Redemption Programs (**Redeemed Units**).

14. All Repurchased Units and Redeemed Units will be held by the Filer for a period of four months after the repurchase or redemption thereof by the Filer (the **Holding Period**) prior to any resale.

15. The resale of Repurchased Units and Redeemed Units will be effected in such a manner as not to have a significant impact on the market price of the Units.

16. Repurchased Units and Redeemed Units that the Filer does not resell within 12 months after the Holding Period (that is, within 16 months after the date of repurchase or redemption, as applicable) will be cancelled by the Filer.

17. During any calendar year, the Filer will not resell an aggregate number of Repurchased Units and Redeemed Units that is greater than 5% of the number of Units outstanding at the beginning of such calendar year.

18. Prospective purchasers of Repurchased Units or Redeemed Units will have access to the Filer's continuous disclosure, which will be filed on SEDAR.

19. The Legislation provides that a trade by or on behalf of an issuer in previously issued securities of that issuer that have been purchased by that issuer is a distribution and, as such, is subject to the Prospectus Requirement. In the absence of the Exemption Sought, any sale by the Filer of Repurchased Units or Redeemed Units would be a distribution that is subject to the Prospectus Requirement.

Decision

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

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

(a) the Repurchased Units and Redeemed Units are otherwise sold by the Filer in compliance with applicable securities legislation, and through the facilities of and in accordance with the regulations and policies of the TSX;

(b) the Filer complies with paragraphs 1 through 5 of section 2.8(2) of National Instrument 45-102 *Resale of Securities* as if it were a selling security holder thereunder; and

(c) the Filer complies with the representations made in paragraphs 15, 16 and 17 above.

For the Commission:

"Tom Cotter"
Vice-Chair

"Kari Horn"
Vice-Chair

2.1.8 Middlefield Limited et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from section 5.9 of National Instrument 41-101 General Prospectus Requirements to permit exchange-traded mutual fund prospectus to omit an underwriter's certificate – Relief granted from take-over bid requirements in National Instrument 62-104 Take-Over Bids and Issuer Bids for normal course purchases of securities on a marketplace – Relief granted to facilitate the offering of exchange-traded mutual funds.

Applicable Legislative Provisions

National Instrument 41-101 General Prospectus Requirements, ss. 5.9, 19.1.
National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

Citation: *Re Middlefield Limited*, 2019 ABASC 14

January 18, 2019

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

AND

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

AND

IN THE MATTER OF
MIDDLEFIELD LIMITED
(the Filer)

AND

IN THE MATTER OF
MIDDLEFIELD HEALTHCARE & LIFE SCIENCES ETF,
MIDDLEFIELD REIT INDEXPLUS ETF
(the Proposed ETFs)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer on behalf of the Proposed ETFs and any additional exchange-traded mutual funds (the **Future ETFs**, and, together with the Proposed ETFs, the **ETFs** and individually, an **ETF**) established in the future for which the Filer may be the manager, for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that:

(a) exempts the Filer and each ETF from the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

(b) exempts a person or company purchasing Listed Securities (as defined below) in the normal course through the facilities of the Toronto Stock Exchange (**TSX**) or another Marketplace (as defined below) from the Take-over Bid Requirements (as defined below)

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

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

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

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

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

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the resale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Basket of Securities means a group of shares or other securities, including, but not limited to, one or more exchange-traded funds or securities, as determined by the Filer from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF to perform certain duties in relation to the ETF, including the posting of a liquid two-way market for the trading of the ETF's Listed Securities on the TSX or another Marketplace.

Form 41-101F2 means Form 41-101F2 *Information Required in an Investment Fund Prospectus*.

Listed Securities means a class or series of securities of an ETF distributed pursuant to a long form prospectus prepared pursuant to NI 41-101 and Form 41-101F2 that is listed on the TSX or another Marketplace.

Marketplace means a "marketplace" as defined in National Instrument 21-101 *Marketplace Operation* that is located in Canada.

NI 41-101 means National Instrument 41-101 *General Prospectus Requirements*.

NI 81-102 means National Instrument 81-102 *Investment Funds*.

Other Dealer means a registered investment dealer.

Prescribed Number of Listed Securities means the number of Listed Securities of an ETF determined by the Filer from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

Securityholders means beneficial or registered holders of Listed Securities or Unlisted Securities (as defined below), as applicable.

Take-over Bid Requirements means the requirements of National Instrument 62-104 *Take-Over Bids and Issuer Bids* relating to take-over bids, including the requirement to file a report of a take-over bid and to pay the accompanying fee, in each Jurisdiction.

Unlisted Securities means a class or series of securities of an ETF offered only on a private placement basis pursuant to available prospectus exemptions, including the accredited investor exemption, under securities laws.

Representations

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

The Filer

1. The Filer is a corporation incorporated under the *Business Corporations Act* (Alberta), with its head office located in Calgary, Alberta.

2. The Filer, which acts as manager and trustee for the ETFs, is registered as an investment fund manager in Alberta, Ontario, Québec and Newfoundland and Labrador. Middlefield Capital Corporation, which acts as investment advisor for the ETFs, is an affiliate of the Filer and is registered as an investment dealer in Alberta, Ontario and Nova Scotia.

3. The Filer will be the investment fund manager and trustee of the Proposed ETFs and an affiliate of the Filer will be the portfolio manager of the Proposed ETFs. The Filer will be the investment fund manager or trustee of the Future ETFs and the Filer, or an affiliate of the Filer, may be the portfolio manager of the Future ETFs.

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

The ETFs

5. Each of the Proposed ETFs currently are non-redeemable investment funds structured as trusts that are governed by the laws of the Province of Alberta.

6. Each of the Proposed ETFs is not in default of securities legislation in any of the Offering Jurisdictions.

7. The Proposed ETFs received unitholder approval for the proposed conversions at a special meeting of the holders of units of the Proposed ETFs held on December 10, 2018.

8. Each Proposed ETF will be converted to an exchange-traded mutual fund structured as a trust that is governed by the laws of the Province of Alberta. The Future ETFs will be either trusts or corporations or classes thereof governed by the laws of a Jurisdiction. Each ETF will be a reporting issuer in the Offering Jurisdiction(s) in which its securities are distributed.

9. Subject to any exemptions that have been, or may be, granted by the applicable securities regulatory authorities, each ETF will be an open-ended mutual fund subject to NI 81-102, and Securityholders of each ETF will have the right to vote at a meeting of Securityholders in respect of matters prescribed by NI 81-102.

10. Each ETF may issue more than one class or series of securities, including, but not limited to Listed Securities and Unlisted Securities.

11. The Listed Securities will be listed on the TSX or another Marketplace.

12. The Filer has filed, or will file, a long form prospectus prepared in accordance with NI 41-101 in respect of the Listed Securities, subject to any exemptions that may be granted by the applicable securities regulatory authorities.

13. Listed Securities will be distributed on a continuous basis in one or more of the Offering Jurisdictions under a prospectus. Listed Securities may generally only be subscribed for or purchased directly from the ETFs (**Creation Units**) by Authorized Dealers or Designated Brokers. Generally, subscriptions or purchases may only be placed for a Prescribed Number of Listed Securities (or an integral multiple thereof) on any day when there is a trading session on the TSX or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of Listed Securities on the TSX or another Marketplace.

14. In addition to subscribing for and reselling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers will also generally be engaged in purchasing and selling Listed Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling Listed Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

15. Each ETF will appoint a Designated Broker to perform certain other functions, which include standing in the market with a bid and ask price for Listed Securities for the purpose of maintaining liquidity for the Listed Securities.

16. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the prospectus requirement under the Legislation, Listed Securities generally will not be available for purchase directly from an ETF. Investors are generally expected to purchase and sell Listed Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another Marketplace. Listed Securities may also be issued directly to Securityholders upon a reinvestment of distributions of income or capital gains.

17. Securityholders that are not Designated Brokers or Authorized Dealers that wish to dispose of their Listed Securities may generally do so by selling their Listed Securities on the TSX or other Marketplace, through a registered dealer, subject only to customary brokerage commissions. A Securityholder that holds a Prescribed Number of Listed Securities or integral multiple thereof may exchange such Listed Securities for Baskets of Securities and/or cash at the discretion of the Filer. Securityholders may also redeem Listed Securities for cash at a redemption price equal to the lesser of: (i) 95% of the closing price of the Listed Securities on the TSX or such other Marketplace on which the Listed Securities are primarily traded; and (ii) the net asset value per Listed Security, in each case calculated as of the effective day of the redemption and in each case less any costs associated with the redemption.

Underwriter's Certificate Requirement

18. Authorized Dealers and Designated Brokers will not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

19. The Filer will generally conduct its own marketing, advertising and promotion of the ETFs to the extent permitted by its registrations.

20. Authorized Dealers and Designated Brokers will not be involved in the preparation of an ETF's prospectus, will not perform any review or any independent due diligence as to the content of an ETF's prospectus, and will not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the Filer in connection with the distribution of Listed Securities. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem Listed Securities by engaging in arbitrage trading to capture spreads between the trading prices of Listed Securities and their underlying securities and by making markets for their clients to facilitate client trading in Listed Securities.

Take-over Bid Requirements

21. As equity securities that will trade on the TSX or another Marketplace, it is possible for a person or company to acquire a percentage of the outstanding Listed Securities that will trigger the Take-over Bid Requirements. However:

    (a) it will be difficult for one or more Securityholders to exercise control or direction over an ETF, as the master declaration of trust of each ETF will provide that in order to have the trustee of an ETF call a meeting of Securityholders of such ETF, Securityholders of such ETF will be required to present the trustee of such ETF with a written request of the Securityholders of such ETF holding in the aggregate not less than 25% of the applicable Listed Securities then outstanding;

    (b) it will be difficult for purchasers of Listed Securities to monitor compliance with the Take-over Bid Requirements because the number of outstanding Listed Securities will always be in flux as a result of the ongoing issuance and redemption of Listed Securities by each ETF; and

    (c) the way in which the Listed Securities will be priced deters anyone from either seeking to acquire control, or offering to pay a control premium for outstanding Listed Securities because pricing for each Listed Security will generally reflect the net asset value of the Listed Securities.

22. The application of the Take-over Bid Requirements to the ETFs would have an adverse impact on the liquidity of the Listed Securities, because they could cause Designated Brokers and other large Securityholders to cease trading Listed Securities once a Securityholder has reached the prescribed threshold at which the Take-over Bid Requirements would apply. This, in turn, could serve to provide conventional mutual funds with a competitive advantage over the ETFs.

Decision

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

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

"Timothy Robson"
Manager, Legal
Corporate Finance
Alberta Securities Commission

2.1.9 National Bank Investments Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief to permit exchange-traded mutual fund prospectus to omit an underwriter's certificate – Relief granted from take-over bid requirements for normal course purchases of securities on a marketplace – Relief granted to facilitate the offering of exchange-traded mutual funds.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1), 147.
National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

[TRANSLATION]

January 9, 2019

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

AND

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

AND

IN THE MATTER OF
NATIONAL BANK INVESTMENTS INC.
(the Filer)

AND

NBI ACTIVE CANADIAN PREFERRED SHARES ETF,
NBI GLOBAL REAL ASSETS INCOME ETF,
NBI CANADIAN FAMILY BUSINESS INDEX ETF AND
NBI LIQUID ALTERNATIVES ETF
(the Proposed ETFs)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Makers) has received an application from the Filer on behalf of the Proposed ETFs, each being an exchange traded mutual fund, and such other exchange traded mutual funds as are managed or may be managed by the Filer or an affiliate or successor or the Filer now or in the future that are structured in the same manner as one of the Proposed ETFs (together with the Proposed ETFs, the ETFs and each individually, an ETF) for a decision under the securities legislation of the Jurisdictions (the Legislation) that:

(a) exempts the Filer and each ETF from the requirement in section 5.9 of *Regulation 41-101 respecting General Prospectus Requirements* (V-1.1, r.14) (Regulation 41-101) (and in Ontario, subsection 59(1) of the *Securities Act* (Ontario)) to include a certificate of an underwriter in an ETF's prospectus (the Underwriter's Certificate Requirement);

(b) exempts all purchasers and holders purchasing Listed Securities (as defined below) in the normal course through the facilities of the TSX (as defined below) or another Marketplace (as defined below) from the Take-over Bid Requirements (as defined below) in Part 2 of *Regulation 62-104 respecting Takeover Bids and Issuer Bids* (V-1.1, r. 35) (Regulation 62-104)

(collectively, the Exemption Sought).

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

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

(b) the Filer has provided notice that subsection 4.7(1) of *Regulation 11-102 respecting Passport System* (V-1.1, r. 1) (Regulation 11-102) is intended to be relied upon in each of the jurisdictions of Canada other than the Jurisdictions; and

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* (V-1.1, r. 3), Regulation 11-102, Regulation 41-101, Regulation 62-104 and *Regulation 81-102 respecting Investment Funds* (V-1.1, r. 39) (Regulation 81-102) have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Basket of Securities means, in relation to the Listed Securities of:

(i) NBI Active Canadian Preferred Shares ETF, NBI Global Real Assets Income ETF, NBI Liquid Alternatives ETF and any other ETF that does not seek to track an index: (i) a group of securities selected by the portfolio manager of the applicable ETF or any applicable sub-advisor from time to time that collectively reflect the constituents of, and their weightings in, the portfolio of the ETF, or (ii) a group of securities selected by the portfolio manager of the applicable ETF or any applicable sub-advisor from time to time; and

(ii) NBI Canadian Family Business Index ETF and any other index-tracking ETF: (i) a group of some or all of the constituent securities held, to the extent reasonably possible, in approximately the same proportion as they are reflected in the applicable index; or (ii) a group of some or all of the constituent and other securities selected by the portfolio manager of the applicable ETF or any applicable sub-advisor from time to time that collectively reflect the aggregate investment characteristics of, or a representative sample of, the applicable index;

"Designated Broker" means a registered dealer that has entered, or intends to enter, into an agreement with the Filer or an affiliate of the Filer on behalf of an ETF to perform certain duties in relation to the ETF, including the posting of a liquid two-way market for the trading of the ETF's Listed Securities on the TSX or another Marketplace.

"Form 41-101F2" means Form 41-101F2 *Information Required in an Investment Fund Prospectus*.

"Listed Securities" means a series of securities of an ETF distributed pursuant to a long form prospectus prepared pursuant to Regulation 41-101 and Form 41-101F2 that is listed on the TSX or another Marketplace.

"Marketplace" means a "marketplace" as defined in *Regulation 21-101 respecting Marketplace Operation* (V-1.1, r. 5) that is located in Canada.

"Other Dealer" means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer.

"Prescribed Number of Listed Securities" means the number of Listed Securities of an ETF determined by the Filer from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

"Securityholders" means beneficial or registered holders of Listed Securities or Unlisted Securities, as applicable.

"Take-over Bid Requirements" means the requirements of *Regulation 62-104 relating to take-over bids*, including the requirement to file a report of a take-over bid and to pay the accompanying fee, in each jurisdictions of Canada.

"TSX" means the Toronto Stock Exchange.

"Unlisted Securities" means a series of securities of an ETF offered only on a private placement basis pursuant to available prospectus exemptions, including the accredited investor exemption, under securities laws.

Representations

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

The Filer

1. The Filer's head office is in Montréal, Quebec.

2. The Filer is a corporation governed by the laws of Canada.

3. The Filer is registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador, and as a mutual fund dealer in each jurisdictions of Canada.

4. The Filer or an affiliate of the Filer is, or will be, the investment fund manager of each ETF. Natcan Trust Company, an affiliate of the Filer, is the trustee of the Proposed ETFs.

5. The Filer is not in default of securities Legislation in any jurisdictions of Canada.

The ETFs

6. Each Proposed ETF is a mutual fund structured as a trust that is governed by the laws of the Province of Ontario. NBI Liquid Alternatives ETF is an exchange-traded fund and an "alternative mutual fund", as defined under Regulation 81-102.The Future ETFs will either be trusts or corporations or classes thereof governed by the laws of a Jurisdiction. Each ETF will be a reporting issuer in the jurisdictions of Canada in which its Listed Securities are distributed.

7. Subject to any exemptions that have been, or may be, granted by the applicable securities regulatory authorities, each ETF is, or will be, a mutual fund subject to Regulation 81-102 and Securityholders of each ETF will have the right to vote at a meeting of Securityholders in respect of matters prescribed by Regulation 81-102.

8. Each ETF may issue more than one series of securities, including, but not limited to Listed Securities and Unlisted Securities.

9. The Filer has filed a long form prospectus prepared in accordance with Regulation 41-101 in respect of the Listed Securities of the ETFs, subject to any

exemptions that may be granted by the applicable securities regulatory authorities.

10. The Filer will apply to list the Listed Securities on the TSX or another Marketplace.

The Exemption Sought

11. Listed Securities will be distributed on a continuous basis in one or more of the jurisdictions of Canada under a prospectus. Listed Securities may generally only be subscribed for or purchased directly from the ETFs (the Creation Units) by Authorized Dealers or Designated Brokers. Generally, subscriptions or purchases may only be placed for a Prescribed Number of Listed Securities on any day when there is a trading session on the TSX or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of Listed Securities on the TSX or another Marketplace.

12. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers, and Affiliate Dealers will also generally be engaged in purchasing and selling Listed Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling Listed Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker, or Affiliate Dealer.

13. Each Designated Broker or Authorized Dealer that subscribes for Creation Units must deliver, in respect of each Prescribed Number of Listed Securities to be issued, cash only, a Basket of Securities and cash, and/or a combination of cash and securities other than Baskets of Securities, in each case in an amount equal to the net asset value of the Listed Securities subscribed for next determined following the receipt of the subscription order.

14. Upon notice given by the Filer from time to time and, in any event, not more than once quarterly, a Designated Broker may be contractually required to subscribe for Creation Units of an ETF for cash in an amount not to exceed a specified percentage of the net asset value of the ETF or such other amount established by the Filer.

15. The Designated Brokers and Authorized Dealers will not receive any fees or commissions from the Filer or the ETFs in connection with the issuance of Creation Units to them. On the issuance of Creation Units, the Filer or the ETF may, in the Filer's discretion, charge a fee to a Designated Broker or an Authorized Dealer to offset the expenses incurred in issuing the Creation Units.

16. Each ETF will appoint a Designated Broker to perform certain other functions, which include standing in the market with a bid and ask price for Listed Securities for the purpose of maintaining liquidity for the Listed Securities.

17. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and any prospectus exempt distributions, Listed Securities generally will not be able to be purchased directly from an ETF. Investors are generally expected to purchase and sell Listed Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another Marketplace. Listed Securities may also be issued directly to Securityholders upon a reinvestment of distributions of income or capital gains.

18. Securityholders that are not Designated Brokers or Authorized Dealers that wish to dispose of their Listed Securities may generally do so by selling their Listed Securities on the TSX or other Marketplace, through a registered dealer, subject only to customary brokerage commissions. A Securityholder that holds a Prescribed Number of Listed Securities or multiple thereof may exchange such Listed Securities for Baskets of Securities and/or cash in the discretion of the Filer. Securityholders may also redeem Listed Securities for cash at a redemption price equal to 95% of the closing price of the Listed Securities on the TSX or other Marketplace on the date of redemption, subject to a maximum redemption price of the applicable net asset value per Listed Security.

Underwriter's Certificate Requirement

19. Authorized Dealers and Designated Brokers will not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

20. The Filer will generally conduct its own marketing, advertising and promotion of the ETFs to the extent permitted by its registrations.

21. Authorized Dealers and Designated Brokers will not be involved in the preparation of an ETF's prospectus, will not perform any review or any independent due diligence as to the content of an ETF's prospectus, and will not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the Filer in connection with the distribution of Listed Securities. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem Listed Securities by engaging in arbitrage trading to capture spreads between the trading prices of Listed Securities and their underlying securities and by making markets for

their clients to facilitate client trading in Listed Securities.

22. The Filer, on behalf of the ETFs, may enter into agreements with various Authorized Dealers (that may or may not be Designated Brokers) pursuant to which the Authorized Dealers may subscribe for Listed Securities.

Take-over Bid Requirements

23. As equity securities that will trade on the TSX or another Marketplace, it is possible for a person or company to acquire such number of Listed Securities so as to trigger application of the Take-over Bid Requirements. However,

    a. it will not be possible for one or more Securityholders to exercise control or direction over an ETF, as the constating documents of each ETF will provide that only the Filer or the trustee of the ETF may call a meeting of the Securityholders, other than where a vacancy in the office of the trustee occurs, in which case one or more Securityholders may call a meeting to replace the trustee where the Filer has failed to appoint a successor trustee or has failed to call a meeting of the Securityholders of the ETF to replace the trustee;

    b. it will be difficult for the purchasers of Listed Securities to monitor compliance with the Take-over Bid Requirements because the number of outstanding Listed Securities will always be in flux as a result of the ongoing issuance and redemption of Listed Securities by each ETF; and

    c. the way in which the Listed Securities will be priced deters anyone from either seeking to acquire control, or offering to pay a control premium for outstanding Listed Securities because pricing for each Listed Security will generally reflect the net asset value of the Listed Securities.

24. The application of the Take-over Bid Requirements to the ETFs would have an adverse impact on the liquidity of the Listed Securities because they could cause the Designated Brokers and other large Securityholders to cease trading Listed Securities once a Securityholder has reached the prescribed threshold at which the Take-over Bid Requirements would apply. This, in turn, could serve to provide conventional mutual funds with a competitive advantage over the ETFs.

Decision

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

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

"Louis Morisset"
President and Chief Executive Officer

2.2 Orders

2.2.1 Keir Reynolds – ss. 127(1), 127(10)

FILE NO.: 2018-64

IN THE MATTER OF
KEIR REYNOLDS

Robert P. Hutchison, Commissioner and Chair of the Panel

January 22, 2019

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 Ontario Securities Commission (**Staff**) for an order imposing sanctions against Keir Reynolds (**Reynolds**) pursuant to subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

ON READING the Settlement Agreement between Reynolds and the British Columbia Securities Commission (the **BCSC**) dated July 3, 2018, and the BCSC Order dated July 3, 2018 with respect to Reynolds, and on reading the materials filed by Staff and the representative for Reynolds;

IT IS ORDERED THAT:

1. Pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, Reynolds shall cease trading in any securities or derivatives, or purchasing any securities, of any issuer he is in a special relationship with until July 3, 2021, except that:

   (a) Reynolds may receive their securities as payment for services he provided to them (the **Compensation Shares**) pursuant to a valid agreement (the **Agreement**) and on the condition that he is not permitted to trade the Compensation Shares until the earlier of:

      i. three months after the Agreement has concluded, or

      ii. July 3, 2021, being the end date of the three-year trading ban pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act,

   provided Reynolds is otherwise entitled to do so under all applicable laws and regulations;

2. Pursuant to paragraph 7 of subsection 127(1) of the Act, Reynolds shall resign any positions that he holds as a director or officer of any issuer that issues securities to the public; and

3. Pursuant to paragraph 8 of subsection 127(1) of the Act, Reynolds is prohibited until July 3, 2021 from becoming or acting as a director or officer of any issuer that issues securities to the public.

“Robert P. Hutchison”

2.2.2 Donna Hutchinson et al.

FILE NO.: 2017-54

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

Timothy Moseley, Vice-Chair and Chair of the Panel

January 23, 2019

ORDER

WHEREAS on January 22, 2019, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, with respect to a motion brought by Staff of the Commission (**Staff**), seeking an order requiring the possible delivery of summaries of anticipated evidence of the respondents David Paul George Sidders (**Sidders**) and Patrick Jelf Caruso (**Caruso**);

ON HEARING the submissions of the representatives for Staff, Sidders and Caruso, no one appearing for Cameron Edward Cornish, and no one appearing for Donna Hutchinson, the proceeding against her having previously been resolved;

IT IS ORDERED, for reasons to follow, that:

1. Sidders shall not, without a Panel's permission, be permitted to provide his own testimony at the merits hearing unless he has served a summary of his anticipated evidence on Staff by no later than February 1, 2019.

2. Caruso shall not, without a Panel's permission, be permitted to provide his own testimony at the merits hearing unless he has served a summary of his anticipated evidence on Staff by no later than February 1, 2019.

3. Any witness summary referred to in this order shall contain:

    a. the substance of the evidence the witness intends to give; and

    b. reference to any documents that the witness will refer to in his evidence.

"Timothy Moseley"

2.2.3 Hudbay Arizona 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).

January 22, 2019

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
HUDBAY ARIZONA INC.
(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) British Columbia 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, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador, and

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

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

2.2.4 The Canadian Depository for Securities Limited et al. – s. 147

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

AND

IN THE MATTER OF
THE CANADIAN DEPOSITORY FOR SECURITIES LIMITED AND
CDS CLEARING AND DEPOSITORY SERVICES INC., AND
CDS INNOVATIONS INC.

ORDER
(Section 147 of the Act)

WHEREAS the Ontario Securities Commission (**Commission**) issued an order dated July 4, 2012, as varied and restated on December 21, 2012 and as varied on December 7, 2012, May 1, 2013, June 25, 2013, June 24, 2014, January 27, 2015, March 27, 2015, December 20, 2016, February 28, 2018 and September 25, 2018 pursuant to section 21.2 of the Act continuing the recognition of The Canadian Depository for Securities Limited (**CDS Ltd.**) and CDS Clearing and Depository Services Inc. (**CDS Clearing**) as clearing agencies (**Order**):

AND WHEREAS CDS Ltd. has two subsidiaries: CDS Clearing and CDS Innovations Inc. (**CDS Innovations**);

AND WHEREAS Schedule B, Section 22.4 of the Order requires, among other things, that CDS Ltd. (i) file its unaudited interim financial statements in accordance with the International Financial Reporting Standards (**IFRS**), and (ii) provide its interim and annual financial statements on a separated and consolidate basis;

AND WHEREAS Schedule B, Section 22.5 of the Order requires, among other things, that CDS Ltd. file unaudited interim financial statements and audited annual financial statements for CDS Innovations, in each case prepared in accordance with IFRS;

AND WHEREAS Schedule B, Section 25.4 of the Order requires, among other things, that CDS Clearing file its unaudited interim financial statements prepared in accordance with IFRS;

AND WHEREAS pursuant to Section 147 of the Act, CDS Ltd. and CDS Clearing have applied (Application) to the Commission for exemptive relief from (i) the requirement to include notes in CDS Ltd.'s unaudited consolidated interim financial statements, (ii) the requirement to include notes in CDS Innovation's interim and annual financial statements, (iii) the requirement to include notes in CDS Clearing's unaudited interim financial statements, (iv) the requirement to prepare and provide non-consolidated interim and annual financial statements for CDS Ltd., and (v) the requirement to audit the annual financial statements of CDS Innovations;

AND WHEREAS based on the Application and the representations that CDS has made to the Commission, it is the Commission's opinion that it would not be prejudicial to the public interest to issue an order granting the requested exemptions;

IT IS ORDERED that pursuant to Section 147 of the Act:

1) CDS Ltd. is hereby exempted from the requirement to include notes in its unaudited consolidated interim financial statements, provided that CDS Ltd. will notify the Commission each time there are any significant changes to the accounting policies and/or estimates used in the last set of annual audited financial statements;

2) CDS Ltd. is hereby exempted from the requirement to include notes in CDS Innovation's interim and annual financial statements;

3) CDS Clearing is hereby exempted from the requirement to include notes in its unaudited interim financial statements, provided that CDS Clearing will notify the Commission each time there are any significant changes to the accounting policies and/or estimates used in the last set of annual audited financial statements;

4) CDS Ltd. is hereby exempted from the requirement to prepare and provide non-consolidated interim and annual financial statements; and

5) CDS Ltd. is hereby exempted from the requirement to audit the annual financial statements of CDS Innovations, provided that such financial statements are prepared using the same accounting policies and/or estimates as those used in the preparation of the financial statements for each of CDS Ltd. and CDS Clearing.

DATED at Toronto this 18th day of January, 2019.

"Janet Leiper"

"Lawrence P. Haber"

2.2.5 Michelle Dunk – ss. 127(1), 127(10)

FILE NO.: 2018-74

IN THE MATTER OF
MICHELLE DUNK

Mark J. Sandler, Commissioner and Chair of the Panel

January 24, 2019

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 Michelle Dunk pursuant to ss. 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

ON READING the Reasons for Judgment issued by the Ontario Court of Justice on April 23, 2018, and the Reasons for Sentence issued by the same court on October 17, 2018, as well as the other materials filed by Staff, and considering that Ms. Dunk did not file any materials, although properly served;

IT IS ORDERED THAT:

1. pursuant to paragraph 2 of s. 127(1) of the Act, trading in any securities or derivatives by Ms. Dunk shall cease permanently;

2. pursuant to paragraph 2.1 of s. 127(1) of the Act, acquisition of any securities by Ms. Dunk is prohibited permanently;

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

4. pursuant to paragraphs 7, 8.1 and 8.3 of s. 127(1) of the Act, Ms. Dunk shall resign any positions that she holds as a director or officer of any issuer or registrant;

5. pursuant to paragraphs 8, 8.2 and 8.4 of s. 127(1) of the Act, Ms. Dunk is prohibited permanently from becoming or acting as a director or officer of any issuer or registrant; and

6. pursuant to paragraph 8.5 of s. 127(1) of the Act, Ms. Dunk is prohibited permanently from becoming or acting as a registrant or promoter.

“Mark J. Sandler”

2.4 Rulings

2.4.1 Macquarie Capital Markets Canada Ltd. – s. 38(1) of the CFA

Headnote

Application for a ruling pursuant to section 38 of the Commodity Futures Act granting relief from the dealer registration requirement in section 22 of the CFA to allow the Filer, an investment dealer and member of the Investment Industry Regulatory Organization of Canada (IIROC), to use employees of a Designated Foreign Affiliate of the Filer for After-Hours Trading in commodity futures contracts and commodity futures options on the Bourse de Montréal Inc. – Relief granted, subject to terms and conditions

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 22(1), 38(1).

January 25, 2019

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

AND

IN THE MATTER OF
MACQUARIE CAPITAL MARKETS CANADA LTD.
(the Filer)

RULING
(Subsection 38(1) of the CFA)

UPON the application (the **Application**) of the Filer to the Ontario Securities Commission (the **Commission**) for a ruling of the Commission, pursuant to subsection 38(1) of the CFA, that the Designated Foreign Affiliate Employees (as defined below) of the Filer are not subject to the dealer registration requirement in the CFA when conducting Extended Hours Activities (as defined below) on the Bourse de Montréal Inc. (the **MX**), subject to the terms and conditions set out below (the **Exemption Sought**);

AND WHEREAS for the purposes of this ruling (the **Decision**):

(i) **"dealer registration requirement in the CFA"** means the provisions of section 22 of the CFA that prohibit a person or company from trading in Exchange-Traded Futures unless the person or company satisfies the applicable provisions of subsection 22(1)(a) of the CFA;

(ii) **"Exchange-Traded Future"** means a commodity futures contract or a commodity futures option as those terms are defined in subsection 1(1) of the CFA; and

(iii) terms used in this Decision that are defined in the *Securities Act* (Ontario) (**OSA**), and not otherwise defined in this Decision or in the CFA, shall have the same meaning as in the OSA, unless the context otherwise requires;

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

AND UPON the Filer having represented to the Commission and the Director as follows:

The Filer

1. The Filer is a corporation formed under the laws of Ontario. The head office of the Filer is located in Toronto, Ontario.

2. The Filer is registered as an investment dealer under the securities legislation of all the provinces of Canada; is registered as a futures commission merchant under the commodity futures legislation of Ontario and Manitoba; and is registered as a derivatives dealer under the derivatives legislation of Québec.

3. The Filer is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**) and an approved participant of the MX.

4. The Filer is not in default of securities or commodity futures legislation in any jurisdiction of Canada.

5. Macquarie Bank Limited (**MBL**) is a corporation incorporated in Australia. The head office of MBL is located in Sydney, Australia.

6. The Filer and MBL are each wholly-owned (indirect) subsidiaries of the same ultimate parent entity, Macquarie Group Limited (**MGL**).

7. MGL carries on business in the United Kingdom and Australia.

8. MBL is an Australia-based financial service provider, which is authorized and regulated by the Australian Prudential Regulation Authority (**APRA**). MBL is also authorized and regulated by the Australian Securities & Investments Commission pursuant to an Australian Financial Services License (**AFSL**).

9. MBL carries on business in the United Kingdom through a branch office, Macquarie Bank Limited (London Branch) (**MBL London** and, together with MBL, the **Designated Foreign Affiliates**), located in London, England and is authorized and regulated by APRA, and subject to regulation by both the United Kingdom Financial Conduct Authority as well as the United Kingdom Prudential Regulation Authority.

10. The Designated Foreign Affiliates hold memberships and/or have third-party clearing relationships with commodity and financial futures exchanges and clearing associations, including the Australian Stock Exchange. The Designated Foreign Affiliates may also carry positions reflecting trades executed on other exchanges through affiliates and/or third-party clearing brokers.

The MX Extended Trading Hours Amendments

11. The MX, based in Montréal, Québec, operates an exchange for options, commodity futures contracts and commodity futures options, and offers access to trading in those contracts to market participants in Canada.

12. On July 9, 2018, the MX announced that the MX had approved amendments to its rules and procedures in order to accommodate the extension of the MX's trading hours. As a result of these amendments, since October 9, 2018, trading of certain products on the MX now commences at 2:00 a.m. Eastern Time (**ET**) rather than the previous 6:00 a.m. ET.

13. As set out in MX Circular 111-18, in order to accommodate this earlier trading, the MX amended its rules to allow participants on the MX to have employees of affiliated corporations, including foreign affiliates, become an approved person of the MX participant and thus be able to handle trading requests originating from the MX participant's clients or the MX participant on a proprietary basis.

Application of the dealer registration requirement in the CFA to Designated Foreign Affiliate Employees

14. The Filer is an MX approved participant and the Designated Foreign Affiliates are affiliated entities. The Filer wishes to make use of certain designated employees of the Designated Foreign Affiliates (**Designated Foreign Affiliate Employees**) to handle trading requests on the MX from the Filer's clients and the Filer on a proprietary basis during the MX's extended trading hours from 2:00 a.m. ET to 6:00 a.m. ET each day on which the MX is open for trading (the **Extended Hours Activities**)

15. The dealer registration requirement in the CFA requires an individual to be registered to act as a dealing representative on behalf of a registered firm. The Exemption Sought is intended to provide the Filer with an exemption from (i) the requirement that the Filer use only registered dealing representatives to conduct the Extended Hours Activities; and (ii) the requirement that the Designated Foreign Affiliate Employees who will be conducting the Extended Hours Activities be registered as dealing representatives of the Filer.

16. The Filer seeks an exemption from the dealer registration requirement in the CFA because, in the absence of such exemption, each Designated Foreign Affiliate Employee who was to trade on behalf of the Filer would be required to become individually registered and licensed in Canada. The Filer believes this would be duplicative since the Designated Foreign Affiliate Employees are certified under applicable United Kingdom or Australia law, would be supervised by the Filer's Designated Supervisors (as defined below) and would otherwise be subject to the conditions set forth below. The Filer believes the dealer registration requirement would be unduly onerous in light of the limited trading activities the Designated Foreign Affiliate Employees would be conducting on behalf of the Filer during the period from 2:00 a.m. ET to 6:00 a.m. ET.

17. The Filer has also applied to, and obtained from, IIROC an exemption from the registered representative requirements that are found in IIROC Dealer Member Rules 18.2, 18.3 and 500.2 and the requirement to enter into an employee or

agent relationship with the person conducting securities related business on its behalf that is found in IIROC Dealer Member Rule 39.3 (the **IIROC Relief**).

18. The IIROC Relief obtained by the Filer is subject to certain conditions, including:

    (a) the Designated Foreign Affiliate Employees must be registered/licensed under the applicable laws of the United Kingdom or Australia in a category that permits trading the types of products which they will be trading on the MX;

    (b) the Designated Foreign Affiliate Employees will be permitted to accept and enter orders from clients of the Filer or orders from the Filer on a proprietary basis during the period from 2:00 a.m. ET to 6:00 a.m. ET, and will not be permitted to give advice;

    (c) the Filer retains all responsibilities for its client accounts;

    (d) the actions of the Designated Foreign Affiliate Employees will be supervised by specific designated supervisors of the Filer (the **Designated Supervisors**), each of whom is qualified to supervise trading in futures contracts, futures contract options and options;

19. The Filer and each Designated Foreign Affiliate must jointly and severally undertake to ensure IIROC has, upon request, prompt access to the audit trail of all trades that relate to Extended Hours Activities and records relating thereto.

20. The Exemption Sought would apply to Designated Foreign Affiliate Employees who are designated and recorded on a list maintained by the Designated Supervisors, which list must be provided to IIROC in writing and updated on at least an annual basis.

21. The Filer and each Designated Foreign Affiliate Employee will enter into an agency arrangement pursuant to which the Filer will assume all responsibility for the actions of the Designated Foreign Affiliate Employees and of each Designated Foreign Affiliate that relate to the Filer's clients regarding this trading on MX, and the Filer will acknowledge that it will be liable under IIROC rules for such actions.

22. All MX trading rules will apply to orders entered by the Designated Foreign Affiliate Employees.

23. Other than individual registration, all other existing Canadian regulatory requirements would continue to apply to this arrangement, including without limitation:

    (a) the Filer's client accounts would continue to be carried on the books of the Filer;

    (b) all communications with the Filer's clients will continue to be in the name of the Filer; and

    (c) the Filer's client account monies, security and property will continue to be held by the Filer;

24. The Filer will establish and maintain written policies and procedures that address the performance and supervision requirements relating to MX extended trading hours.

25. The Filer will disclose this extended trading hours arrangement to clients for its MX trading services and provide specific instructions concerning the placement of orders relating thereto.

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest to do so;

IT IS RULED pursuant to subsection 38(1) of the CFA that the Exemption Sought is granted, so long as:

    (a) the Designated Foreign Affiliates and the Designated Foreign Affiliate Employees are registered, licensed, certified or authorized under the applicable laws of the foreign jurisdiction in which the head office or principal place of business of the Designated Foreign Affiliate is located in a category that permits trading the type of products which the Designated Foreign Affiliate Employees will be trading on the MX;

    (b) the Designated Foreign Affiliate Employees are permitted to accept and enter orders from clients of the Filer or orders from the Filer on a proprietary basis during the period from 2:00 a.m. ET to 6:00 a.m. ET, and will not be permitted to give advice;

    (c) the Filer retains all responsibilities for its client accounts;

(d) the actions of the Designated Foreign Affiliate Employees will be supervised by the Designated Supervisors, each of whom is qualified to supervise trading in futures contracts, futures contract options and options;

(e) the Filer and the Designated Foreign Affiliate Employees enter into an agency arrangement substantially as described in paragraph 21, and such arrangement remains in effect; and

(f) the Filer remains in compliance with the terms and conditions of the IIROC Relief.

"AnneMarie Ryan"
Commissioner
Ontario Securities Commission

"William Furlong"
Commissioner
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Keir Reynolds – ss. 127(1), 127(10)

IN THE MATTER OF
KEIR REYNOLDS

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

Citation: *Reynolds (Re)*, 2019 ONSEC 5
Date: 2019-01-22
File No. 2018-64

Hearing:	In Writing	
Decision:	January 22, 2019	
Panel:	Robert P. Hutchison	Chair of the Panel
Appearances:	Vivian Lee	For Staff of the Commission
	Jonathan C. Lotz	For Keir Reynolds

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REASONS AND DECISION

I. INTRODUCTION AND BACKGROUND

[1] Keir Reynolds (**Reynolds** or the **Respondent**) entered into a settlement agreement with the Executive Director of the British Columbia Securities Commission (**BCSC**) on July 3, 2018 (the **Settlement Agreement**).[1] In the Settlement Agreement Reynolds admitted to insider trading contrary to section 57.2(2) of the British Columbia *Securities Act* (the **BC Act**).[2]

1 *Reynolds (Re)*, 2018 BCSECCOM 195 (**Settlement Agreement**).
2 RSBC 1996, c 418.

[2] In the Settlement Agreement Reynolds agreed to pay $15,000 to the BCSC and to be subject to certain non-monetary sanctions under the BC Act. Pursuant to the Settlement Agreement the BCSC ordered[3] that:

a. under section 161(1)(d)(i) of the BC Act, Reynolds resign any position he holds as a director or officer of an issuer that issues securities to the public;

b. under section 161(1)(d)(ii) of the BC Act, Reynolds is prohibited for three years from becoming or acting as a director or officer of any issuer that issues securities to the public; and

c. under section 161(1)(b)(ii) of the BC Act, Reynolds is prohibited for three years from trading in or purchasing any securities or exchange contracts of an issuer he is in a special relationship with, except that he may receive their securities as payment for services he provided to them (the **Compensation Shares**) pursuant to a valid agreement (the **Agreement**) and on the condition that he is not permitted to trade the Compensation Shares until the earlier of:

i. three months after the Agreement has concluded, or

ii. the three year ban under section 161(1)(b)(ii) has expired,

provided he is otherwise entitled to do so under all applicable laws and regulations.

[3] Staff of the Ontario Securities Commission (**Staff** of the **Commission**) relies on the inter-jurisdictional enforcement provisions found in subsection 127(10) of the Ontario *Securities Act* (the **Act**)[4] and requests that the Commission issue an order that replicates the non-monetary sanctions imposed by the BCSC.

[4] For the reasons that follow, I find that it is in the public interest to issue an order substantially in the form requested by Staff.

II. BRITISH COLUMBIA SECURITIES COMMISSION SETTLEMENT

[5] The Settlement Agreement sets out the following agreed facts.[5]

[6] Reynolds was a director, and later the Chairman and CEO, of Mezzi Holdings Inc. (**Mezzi**), a company involved in the wearable smart technology industry.

[7] Mezzi entered into a reverse takeover transaction (**RTO**) whereby it was to be vended into a public company (the **Issuer**) which traded on the TSX-V and the Borse Frankfurt. The letter of intent with respect to the RTO was first publicly disclosed on April 25, 2014, however Reynolds had knowledge of undisclosed material information concerning the pending RTO from at least February 2014 by virtue of his position as a Director and Officer of Mezzi.

[8] Between February 2014 and April 2014, with knowledge of the undisclosed material information concerning the RTO, Reynolds funded and directed trades in the Issuer in the account of another individual. Neither Reynolds nor the individual who held the account made any profit from this trading.

[9] In the Settlement Agreement Reynolds agreed that by trading shares of the Issuer he contravened section 57.2(2) of the BC Act.

[10] In his submissions to this Hearing Panel, Reynolds pointed out several errors in the Agreed Statement of Facts relating to certain facts and timelines. I agree with Staff's submissions that the facts the Respondent submits are incorrect do not affect the finding of misconduct admitted to by the Respondent and do not impact the terms of the BCSC Order which Staff seeks to reciprocate.

[11] The Commission has previously held, and I concur, that inter-jurisdictional enforcement proceedings such as this are not intended to re-litigate the factual findings of securities regulatory authorities in other jurisdictions, but rather to hear evidence and submissions with respect to the terms of an appropriate reciprocal order.[6]

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3 *Reynolds (Re)*, 2018 BCSECCOM 196 (**BCSC Order**).

4 RSO 1990 c S.5.

5 Settlement Agreement at para 1.

6 *Black (Re)*, 2014 ONSEC 16, (2014) 37 OSCB 5847 at para 24.

III. SERVICE AND PARTICIPATION

[12] Staff brought this proceeding under the expedited procedure provided in Rule 11(3) of the Commission's *Rules of Procedure*, which permits the hearing to be conducted in writing.[7]

[13] Reynolds was served via email on October 26, 2018, with the Notice of Hearing, Statement of Allegations, Staff's written submissions, and hearing brief.[8] He was also served via courier at his home address.[9]

[14] Pursuant to Rule 11(3) of the *Rules of Procedure* the deadline for the Respondent to serve and file written submissions was November 23, 2018. On November 19, 2018, the Office of the Secretary received an email from Counsel for Reynolds, indicating that he had just been retained and requesting an adjournment of two weeks to prepare written submissions. The request was granted by the Chair of the Panel on November 20, 2018. The new deadline for filing written submissions was December 6, 2018. On December 6, 2018, Counsel for Reynolds filed a hearing brief,[10] brief of authorities and written submissions. Staff of the Commission filed their Reply Submissions on December 18, 2018, in accordance with Rule 11(3)(h) of the *Rules of Procedure*.

IV. ANALYSIS

A. Introduction

[15] The BCSC is a securities regulatory authority. Paragraph 5 of subsection 127(10) of the Act provides for inter-jurisdictional enforcement where a person or company has agreed with a securities regulatory authority to be made subject to sanctions, conditions, restrictions or requirements. Reynolds agreed to be made subject to sanctions, conditions, restrictions or requirements in the Settlement Agreement with the BCSC, thereby satisfying the criteria set out in paragraph 5 of subsection 127(10).[11]

[16] In his written submissions the Respondent has admitted that the threshold under paragraph 5 of subsection 127(10) has been met, and therefore I must determine what sanctions, if any, should be ordered against the Respondent pursuant to subsection 127(1) of the Act.

B. Statutory authority to make public interest orders

[17] 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.[12]

[18] Orders made under subsection 127(1) of the Act are "protective and preventive" and are made to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. Such orders are not punitive in nature.[13] The panel in *Mithras Management Ltd. (Re)* explained it this way:

> [T]he role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be …[14]

[19] The Respondent argues in his written submissions that by reciprocating the BC Order the order requested by Staff is punitive in nature. He argues that imposing the requested order would only serve to punish his past conduct, as the order is not protective or preventive.

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7 *Ontario Securities Commission Rules of Procedure and Forms* (2017), 40 OSCB 8988 (the ***Rules of Procedure***).

8 Exhibit 1, Staff's Hearing Brief.

9 Exhibit 2, Affidavit of Service of Lee Crann, sworn October 30, 2018 at para 4.

10 Exhibit 3, Respondent's Hearing Brief.

11 Settlement Agreement at para 1.

12 *Elliot (Re)*, 2009 ONSEC 26, (2009) 32 OSCB 6931 at para 27.

13 *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, [2001] 2 SCR 132, 2001 SCC 37 at paras 42-43 (***Asbestos***).

14 *Mithras Management Ltd. (Re)* (1990), 13 OSCB 1600 at pages 10-11.

[20] With respect, I disagree. The requested order reciprocates the non-monetary sanctions Reynolds agreed to with the BCSC and aims to protect the public interest in Ontario.[15] I find that the terms of the order requested by Staff under section 127(1) of the Act are in the public interest and granting the order in Ontario is not punitive.

[21] When asked to reciprocate an order from another Canadian jurisdiction, the Commission must make its own determination of what is in the public interest.[16]

[22] 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.[17] 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."[18]

[23] In exercising its jurisdiction to make an order in reliance on subsection 127(10) of the Act, the Commission does not require that the underlying conduct have a connection to Ontario.[19] However, it is noted from the evidence that the shares in the Issuer were listed on the TSX-V, a recognized stock-exchange in Ontario.

C. Appropriate Sanctions

1. Respondent's Submissions

[24] In his written submissions Reynolds submits that an order reciprocating the sanctions he agreed to in the Settlement Agreement with the BCSC would not be in the public interest. For the reasons that follow, I disagree.

[25] The burden lies with the Respondent to demonstrate that the BCSC Order should not be reciprocated by the Commission. In *JV Raleigh* the hearing panel set out the test a respondent must meet to show that reciprocating the order of the foreign jurisdiction would be contrary to the public interest: there was no substantial connection between the Respondent and the originating jurisdiction, that the order of the regulatory authority in the originating jurisdiction was procured by fraud, or that there was a denial of natural justice.[20]

[26] The Respondent has not demonstrated that any of these factors apply to his Settlement Agreement or the BCSC Order.

2. Consent to Regulatory Order in Other Jurisdictions

[27] In the Settlement Agreement Reynolds consented to, "a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the Orders set out in paragraph 2" of the BCSC Order.[21] Despite this consent, Reynolds requests this Commission refrain from reciprocating the sanctions imposed by the BCSC.

[28] The Commission previously considered this issue in *Lee (Re)*. In *Lee* the hearing panel held, "in the absence of compelling circumstances…it would be contrary to the public interest to permit a respondent to avoid the consequences of a commitment previously given to a securities regulatory authority in another jurisdiction."[22]

[29] I do not find any compelling circumstances in the present case that would allow Reynolds to alter his commitment to the BCSC.

3. Sanctioning Factors

[30] In determining specific sanctions, the Commission may consider a number of factors including the seriousness of the misconduct, the respondent's experience in the marketplace, specific and general deterrence, the effect any sanction might have on the livelihood of the respondent, and any aggravating or mitigating factors.[23]

[31] Reynolds argues that because his breach of the BC Act was an isolated incident, he did not make a profit[24] or avoid a loss, and he misunderstood the legality of the impugned trades, his conduct is less serious in nature than the typical

15 *Asbestos* at para 43.

16 *Euston Capital Corp (Re)*, 2009 ONSEC 23, (2009) 32 OSCB 6313 at para 44.

17 *JV Raleigh Superior Holdings Inc (Re)* 2013 ONSEC 18, (2013) 36 OSCB 4639 at para 21 (***JV Raleigh***).

18 The Act, s 2.1.

19 *Won Sang Shen Cho (Craig Cho)*, 2014 ONSEC 20, (2014) 37 OSCB 7285 at para 48.

20 *JV Raleigh* at para 26.

21 Settlement Agreement at para 3.

22 *Lee (Re)*, 2018 ONSEC 57 at para 25 (**Lee**).

23 *Belteco Holdings Inc. (Re)* (1998), 21 OSCB 7743 at 7746-7747; *MCJC Holdings Inc. (Re)* (2002), 25 OSCB 1133 at 1136.

24 Settlement Agreement at para 1.

insider trading offence. The fact remains that insider trading is a serious offence and among the most egregious contraventions of the Act. Both the BCSC and this Commission have held that insider trading is the type of conduct that erodes public confidence in the capital markets.[25] Also, it is not for this hearing panel to consider facts that were not contemplated by the BCSC in the Settlement Agreement. I find that in this hearing the arguments made by Reynolds with regards to the circumstances of his conduct do not lessen the seriousness of the offence.

[32] Reynolds submits that at the time of the misconduct he was both experienced and active in the capital markets. He states that his misconduct was a result of his misunderstanding of one aspect of securities law, and the rest of his extensive activity in the capital markets was lawful. I accept the Respondent's submissions that his breach of the BC Act was an isolated incident, however, a market participant with his level of experience and activity in the marketplace should have known that the impugned trades were contrary to the BC Act.

[33] Reynolds provided evidence of enrollment in an educational course and states that he has been in communication with various securities exchanges to work towards his lawful participation in the marketplace. He submits that these steps demonstrate that he is not at risk of future misconduct and therefore no threat to the integrity of the capital markets in Ontario.

[34] The actions taken by the Respondent in the aftermath of the Settlement Agreement with the BCSC are commendable, however, they do not obviate the purpose of the BCSC Order or its replication in Ontario. It is important that this Commission impose sanctions that will protect Ontario investors by specifically deterring the Respondent from engaging in similar or other misconduct in Ontario, and by acting as a general deterrent to other like-minded persons.

[35] The Respondent argues in his written submissions that his livelihood has already been severely limited by the BCSC Order and an order from this Commission would further limit his livelihood, his ability to participate in the capital markets and further tarnish his reputation. Reynolds has failed to provide sufficient evidence to demonstrate that his livelihood has been impacted, beyond his submissions. The Respondent agreed to the Settlement Agreement in BC, of which a reasonably expected consequence was the limiting of his ability to participate in the capital markets in that province. I wish to make clear that the order sought by Staff would not be imposing any new sanctions on the Respondent but would be reciprocating in Ontario the sanctions ordered by the BCSC.

[36] Reynolds made early admissions and agreed to pay a voluntary payment in the amount of $15,000 to the BCSC pursuant to the Settlement Agreement, prior to the issuance of a Notice of Hearing.[26] The BCSC considered this to be a mitigating factor and so do I.

[37] I accept Staff's submission that the sanctions imposed by the BCSC are proportionate to the Respondent's misconduct and that it would be appropriate for me to issue a substantially similar order.

D. Differences between BC and Ontario Sanctions

[38] Due to differences between the Act and the BC statute, some of the sanctions I impose cannot be identical to those imposed by the BCSC.

[39] The BCSC prohibited the Respondent from trading in or purchasing "exchange contracts" of an issuer he is in a special relationship with. Subsection 127(1) of the Act does not expressly refer to exchange contracts. The BC Act defines "exchange contract" to mean a futures contract or option that meets certain specified requirements. As a result, Staff seeks an order prohibiting the Respondent from trading in derivatives of any issuer he is in a special relationship with for a three-year period. In the circumstances of this case, it is equally in the public interest to protect Ontario investors and the capital markets by prohibiting the Respondent from trading in derivatives of any issuer he is in a special relationship with for a three-year period. I will therefore make the order requested by Staff.

V. CONCLUSION

[40] For the reasons set out above, I find that it is in the public interest to impose the sanctions requested by Staff. I will therefore order that:

a. Pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, Reynolds shall cease trading in any securities or derivatives, or purchasing any securities, of any issuer he is in a special relationship with until July 3, 2021, except that:

[25] *Torudag (Re)* 2009 BCSECCOM 339 at paras 10-11; *Landen (Re)* (2010), 33 OSCB 9489 at para 56; *Harper (Re)* (2004), 27 OSCB 3937 at para 49.

[26] Settlement Agreement at para 1.

i. Reynolds may receive their securities as payment for services he provided to them (the **Compensation Shares**) pursuant to a valid agreement (the **Agreement**) and on the condition that he is not permitted to trade the Compensation Shares until the earlier of:

(a) three months after the Agreement has concluded, or

(b) July 3, 2021, being the end date of the three-year trading ban pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act,

provided Reynolds is otherwise entitled to do so under all applicable laws and regulations;

b. Pursuant to paragraph 7 of subsection 127(1) of the Act, Reynolds shall resign any positions that he holds as a director or officer of any issuer that issues securities to the public; and

c. Pursuant to paragraph 8 of subsection 127(1) of the Act, Reynolds is prohibited until July 3, 2021 from becoming or acting as a director or officer of any issuer that issues securities to the public.

Dated at Toronto this 22 day of January, 2019.

3.1.2 Michelle Dunk – ss. 127(1), 127(10)

IN THE MATTER OF
MICHELLE DUNK

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

Citation: *Dunk (Re)*, 2019 ONSEC 6
Date: 2019-01-24
File No. 2018-74

Hearing:	In Writing	
Decision:	January 24, 2019	
Panel:	Mark J. Sandler	Commissioner and Chair of the Panel
Appearances:	Vivian Lee	For Staff of the Commission
		No submissions made by or on behalf of Michelle Dunk

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REASONS AND DECISION

I. OVERVIEW

[1] In April 2018, the respondent Michelle Dunk was convicted in the Ontario Court of Justice for unregistered trading, illegal distribution of securities and fraud in contravention of the *Securities Act* (the **Act**).[1] She was also convicted of contravening the Act by trading in securities while prohibited from doing so by a temporary cease trade order (**TCTO**) issued by the Ontario Securities Commission.

[2] Enforcement Staff of the Commission (**Staff**) applies for a protective order in the public interest pursuant to ss. 127(10) and 127(1) of the Act. More particularly, Staff relies on paragraph 1 of ss. 127(10) of the Act. It provides that an order may be made under s. 127(1) in respect of a person who has been convicted in any jurisdiction of an offence arising from a transaction, business or course of conduct related to securities or derivatives. Staff submits that this precondition has been met, and that it is in the public interest based on the totality of circumstances, including but not limited to Ms. Dunk's convictions in Ontario for such offences, to make an inter-jurisdictional[2] enforcement order on the terms proposed.

[3] This matter was heard in writing. Ms. Dunk chose not to participate in the proceeding. Based on the written submissions, hearing brief and supporting legal precedents filed by Staff, I am satisfied that the precondition for the proposed order has been met, and that it is in the public interest to issue the requested order.

[4] These are my reasons for so concluding.

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1 RSO 1990, c S.5.

2 Inter-jurisdictional, in this context, refers to relevant convictions in judicial proceedings, whether or not in Ontario. More frequently, inter-jurisdictional refers to orders made by securities regulatory authorities in jurisdictions other than Ontario.

II. BACKGROUND

A. Previous Commission Proceedings

[5] On July 27, 2011, the Commission issued a TCTO against Ms. Dunk arising out of allegations pertaining to an oil investment scheme that ran between October 2010 and April 2011. In 2015, Ms. Dunk entered into a Settlement Agreement with Staff in relation to the above allegations. In its order dated January 6, 2015, approving the Settlement Agreement, the Commission issued an order prohibiting Ms. Dunk from trading in or acquiring securities for a period of eight years. The order included an exception that, in essence, allowed Ms. Dunk to trade and acquire securities through a registrant for personal purposes in her own account, following payment of the administrative penalty and costs orders against her.[3]

B. Ontario Court of Justice Proceedings

[6] On February 29, 2016, Ms. Dunk pled guilty before Justice Hearn of the Ontario Court of Justice to unregistered trading and breach of a TCTO. On March 4, 2016, she was sentenced to a total of 75 days' imprisonment, to be served intermittently, two years of probation and an order of restitution. She had paid partial restitution prior to her plea.

[7] On June 23, 2016, Ms. Dunk was charged with multiple offences, relating to conduct that pre-dated the subject matter of her earlier guilty plea. These offences related to another investment scheme and were as follows:

a. unregistered trading, contrary to s. 25(1) of the Act,

b. illegal distribution of securities, contrary to s. 53(1) of the Act,

c. fraud, contrary to s. 126.1(1)(b) of the Act, and

d. contravening Ontario securities law by trading in securities while prohibited from doing so by a TCTO, contrary to s. 122(1)(c) of the Act.

[8] On April 23, 2018, following a 12-day contested trial, Justice Sopinka convicted Ms. Dunk on all counts.[4] The trial judge found that between May 1, 2012, and May 30, 2016, Ms. Dunk traded in securities without being registered, illegally distributed securities and traded in securities while prohibited from doing so. The trial judge also found that Ms. Dunk's actions "constituted conduct relating to securities that perpetrated a fraud on four different individuals."[5] The complainants suffered losses in the total amount of $87,000 (Cdn.) and $70,000 (U.S.), little of which was recovered.

[9] Ms. Dunk's multiple false statements and misrepresentations to the investors constituted fraud. These included:

a. failing to disclose to investors that Ms. Dunk was subject to a TCTO,

b. misrepresenting to an investor that her funds were being directed to an investment when they were instead retained by Ms. Dunk, allegedly for payment of a commission without notice to the investor,

c. misrepresenting to investors that their investments were 100% secure and that their funds were secured by liens, and

d. misrepresenting to another investor that he was investing in a company called Rocky Point when in fact there was no such investment and his funds were directed to another entity.

[10] On October 17, 2018, Justice Sopinka sentenced Ms. Dunk to imprisonment for two years less a day, prohibited her from trading in securities permanently and ordered the payment of restitution to multiple complainants.[6]

[11] Staff relies upon the convictions registered by Justice Sopinka in support of this application for an inter-jurisdictional enforcement order.

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3 *Ground Wealth Inc. (Re)*, (2015) 38 OSCB 250.

4 *Ontario Securities Commission v Dunk*, Reasons for Judgment released on April 23, 2018 (OCJ) at para 194 (**Reasons for Judgment**).

5 *Ontario Securities Commission v Dunk*, Reasons for Sentence released on October 17, 2018 (OCJ) (**Reasons for Sentence**) at para 1.

6 Reasons for Sentence at paras 46-47.

III. RESPONDENT'S NON-PARTICIPATION

[12] In this proceeding, Staff served Ms. Dunk personally on December 6, 2018, with the Notice of Hearing, the Statement of Allegations and Staff's Hearing Brief, Written Submissions and Brief of Authorities. Staff filed an Affidavit of Service sworn on December 7, 2018. I find that Staff properly effected service on the respondent.

[13] In its Statement of Allegations, Staff elected to proceed using the expedited procedure for inter-jurisdictional proceedings set out in Rule 11(3) of the Ontario Securities Commission *Rules of Procedure and Forms*.[7] Pursuant to Rule 11(3)(g), Ms. Dunk had 28 days following service to deliver a hearing brief and written submissions. Although properly served, Ms. Dunk filed no materials by the deadline, or at any point.

[14] I am satisfied that the respondent was provided with adequate notice of this written hearing and that, pursuant to the *Statutory Powers Procedure Act*[8] and the OSC Rules of Procedure,[9] it is appropriate to proceed in her absence.

IV. LAW AND ANALYSIS

A. Did Ms. Dunk's conviction arise from a transaction, business or course of conduct related to securities?

[15] I turn now to the substantive issues raised in Staff's application. As previously indicated, s. 127(10) of the Act authorizes an order under s. 127(1) where a respondent has been convicted in any jurisdiction of an offence arising from a transaction, business or course of conduct related to securities.

[16] That precondition has been met here. The trial judge applied the test articulated in *Reves v Ernst & Young*, 494 US 56 (1990) (which has been adopted by Canadian courts) in finding that the promissory notes sold by Ms. Dunk were securities.[10] Ms. Dunk's sale of securities and related activities resulted in convictions for breaching ss. 25(1), 53(1), 122 and 126.1(1)(b) of the Act. Having regard to both the nature of the offences that were the subject of convictions, and the trial judge's findings of fact, I am satisfied that Ms. Dunk's convictions were for offences arising from transactions, business and a course of conduct related to securities.

B. Is it in the public interest to order sanctions against Ms. Dunk?

[17] Both s. 127(10) and existing jurisprudence make clear that where the above precondition has been met, the Commission has the discretion to grant an application for an inter-jurisdictional enforcement order and, if granted, as to the terms to be imposed. In exercising that discretion, I rely on the following summary of relevant principles from the Act and the existing jurisprudence:[11]

a. The Commission must be satisfied that the requested order is in the public interest;

b. The Commission should consider, in determining whether the requested order is in the public interest, whether the order is necessary to protect investors in Ontario and for the integrity of Ontario's capital markets;

c. The purpose of the Commission's public interest jurisdiction is "neither remedial nor punitive; it is protective and preventative"; the purpose "is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets;"

d. Put another way, the purpose of a s. 127(1) order "is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets;"

e. Findings of fact made by a court stand as determinations of fact for the purpose of the Commission's exercise of discretion under s. 127(10);[12]

f. Deterrence, both specific and general, is a relevant consideration in whether a protective and preventative order should be made and what that order should include. Deterrence "is prospective in orientation and aims at preventing future conduct;" and

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7 (2017) 40 OSCB 8988 (**OSC Rules of Procedure**).

8 RSO 1990, c S.22, s 7(2).

9 OSC Rules of Procedure, r 21(3).

10 Reasons for Judgment at paras 37-67.

11 *Global 8 Environmental Technologies Inc (Re)*, 2017 ONSEC 31, (2017) 40 OSCB 7127 at paras 12-14 (together with the cases referred to therein).

12 *Reeve (Re)*, 2018 ONSEC 55, (2018) 41 OSCB 9433 at para 19

g. In determining what sanctions are appropriate to incorporate into a s. 127 order, the Commission must consider the particular circumstances as they relate to each respondent.

[18] Ms. Dunk's misconduct was extremely serious. She solicited substantial funds from trusting investors of modest means through multiple fraudulent misrepresentations. The trial judge found that her actions were motivated solely by personal financial gain, without regard for the financial devastation she caused.[13] She exploited her personal relationships with investors. She was aware when she sold the investments that she was the subject of a TCTO, and forged ahead nonetheless, deliberately failing to disclose that fact to investors.[14] The trial judge found her conduct so serious as to compel a substantial term of imprisonment, as well as an order prohibiting Ms. Dunk from trading in securities permanently.

[19] In my view, it is in the public interest to impose strong protective sanctions in this matter to protect investors in Ontario and the integrity of Ontario's capital markets. The proposed order complements the order made by Justice Sopinka. It is proportionate to Ms. Dunk's misconduct and appropriate in the circumstances.

V. DISPOSITION

[20] For the above reasons, the application is granted and an order will be issued in relation to the respondent on the following terms:

a. pursuant to paragraph 2 of s. 127(1) of the Act, trading in any securities or derivatives by Ms. Dunk shall cease permanently;

b. pursuant to paragraph 2.1 of s. 127(1) of the Act, acquisition of any securities by Ms. Dunk shall be prohibited permanently;

c. pursuant to paragraph 3 of s. 127(1) of the Act, any exemptions contained in Ontario securities law shall not apply to Ms. Dunk permanently;

d. pursuant to paragraphs 7, 8.1 and 8.3 of s. 127(1) of the Act, Ms. Dunk shall resign any positions that she holds as a director or officer of any issuer or registrant;

e. pursuant to paragraphs 8, 8.2 and 8.4 of s. 127(1) of the Act, Ms. Dunk shall be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant; and

f. pursuant to paragraph 8.5 of s. 127(1) of the Act, Ms. Dunk shall be prohibited permanently from becoming or acting as a registrant or promoter.

Dated at Toronto this 24th day of January, 2019.

"Mark J. Sandler"

[13] Reasons for Sentence at para 44

[14] Reasons for Sentence at para 7(4)

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
THERE IS NOTHING TO REPORT THIS WEEK.		

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
Blocplay Entertainment Inc.	04 December 2018	
Katanga Mining Limited	15 August 2017	
Leviathan Cannabis Group Inc.	07 January 2019	

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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:
Short Term Bond Fund (Portico)
North American Specialty Class
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated January 24, 2019
Received on January 24, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
Quadrus Investment Services Inc.
Promoter(s):
Mackenzie Financial Corporation
Project #2767715

Issuer Name:
Mackenzie Canadian Large Cap Dividend Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated January 22, 2019
Received on January 23, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
LBC Financial Services Inc
Promoter(s):
Mackenzie Financial Corporation
Project #2804068

Issuer Name:
Manulife EAFE Equity Fund (formerly Manulife International Focused Fund)
Manulife International Value Equity Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus and Amendment #3 to Annual Information Form dated January 24, 2019
Received on January 24, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Manulife Securities Incorporated/Manulife Securities Investment Services Inc.
Promoter(s):
N/A
Project #2783412

Issuer Name:
PIMCO Global Short Maturity Fund (Canada)
PIMCO Low Duration Monthly Income Fund (Canada)
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated January 22, 2019
NP 11-202 Preliminary Receipt dated January 23, 2019
Offering Price and Description:
Series A, Series A(US$), Series F, Series F(US$), Series I, Series I(US$), Series M, Series M(US$), Series O, Series O(US$) and ETF Series units

Underwriter(s) or Distributor(s):
N/A
Promoter(s):
PIMCO Canada Corp.
Project #2866025

Issuer Name:
Short Term Bond Fund (Portico)
North American Specialty Class
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated January 24, 2019
NP 11-202 Receipt dated January 28, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
Quadrus Investment Services Inc.
Promoter(s):
Mackenzie Financial Corporation
Project #2767715

Issuer Name:
Dynamic iShares Active Canadian Dividend ETF
Dynamic iShares Active Crossover Bond ETF
Dynamic iShares Active Global Dividend ETF
Dynamic iShares Active Global Financial Services ETF
Dynamic iShares Active Investment Grade Floating Rate ETF
Dynamic iShares Active Preferred Shares ETF
Dynamic iShares Active Tactical Bond ETF
Dynamic iShares Active U.S. Dividend ETF
Dynamic iShares Active U.S. Mid-Cap ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated January 21, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
units @ net asset value
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2856934

Issuer Name:
Frontenac Mortgage Investment Corporation
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated January 21, 2019
NP 11-202 Receipt dated January 23, 2019
Offering Price and Description:
Common shares @ net asset value
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2815141

Issuer Name:
Guardian Managed Growth Portfolio
Guardian Risk Managed Conservative Portfolio
Guardian SteadyFlow Equity Fund
Guardian SteadyPace Equity Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated January 21, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
Series I and Series W units @ net asset value
Underwriter(s) or Distributor(s):
Worldsource Financial Management Inc.
Worldsource Securities Inc.
Promoter(s):
Guardian Capital Inc.
Project #2856557

Issuer Name:
Horizons China High Dividend Yield Index ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated January 24, 2019
NP 11-202 Receipt dated January 28, 2019
Offering Price and Description:
Class A units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2856932

Issuer Name:
Invesco S&P International Developed Low Volatility Index ETF (formerly, PowerShares S&P International Dev Low Vol Index)
Principal Regulator – Ontario
Type and Date:
Amendment #4 to Final Long Form Prospectus dated January 16, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2703193

Issuer Name:
Mackenzie Canadian Large Cap Dividend Class
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated January 22, 2019
NP 11-202 Receipt dated January 28, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
LBC Financial Services Inc
Promoter(s):
Mackenzie Financial Corporation
Project #2804068

Issuer Name:
Manulife EAFE Equity Fund (formerly Manulife International Focused Fund)
Manulife International Value Equity Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus and Amendment #3 to Annual Information Form dated January 24, 2019
NP 11-202 Receipt dated January 28, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Manulife Securities Incorporated/Manulife Securities Investment Services Inc.
Promoter(s):
N/A
Project #2783412

Issuer Name:
Ninepoint Short-Term Bond Fund
Ninepoint Short-Term Bond Class
Ninepoint Real Asset Class
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated January 15, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Ninepoint Partners LP
Project #2745066

Issuer Name:
PIMCO Global Short Maturity Fund (Canada)
PIMCO Low Duration Monthly Income Fund (Canada)
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated January 25, 2019
NP 11-202 Receipt dated January 28, 2019
Offering Price and Description:
Series A, Series A(US$), Series F, Series F(US$), Series I, Series I(US$), Series M, Series M(US$), Series O, Series O(US$) and ETF Series units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
PIMCO Canada Corp.
Project #2866025

Issuer Name:
Purpose Multi-Strategy Market Neutral Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated January 14, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
ETF units, Class A units, Class F units, Class I units, Class D units and Class P units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2789857

Issuer Name:
Purpose Premium Yield Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated January 14, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
ETF shares, ETF non-currency hedged shares, U.S. dollar denominated ETF non-currency hedged shares, Series A shares, Series A non-currency hedged shares, Series F shares, Series F non-currency hedged shares, Series XA shares, Series XF shares, Series XUA shares, Series XUF shares and Class P shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Purpose Investments Inc.
Project #2823273

Issuer Name:
Purpose Core Dividend Fund
Purpose Strategic Yield Fund
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated January 14, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
ETF shares, Series A shares, Series F shares, Series I shares, Series D shares, Series XA shares, Series XF shares, Series XUA shares and Series XUF shares; and ETF units, Series A units, Series B units, Series F units, Series TF6 units, Series UF units, Series I units, Series X units and Series Y units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Purpose Investments Inc.
Project #2764789

Issuer Name:
RBC Canadian Short Term Bond Index ETF
RBC Canadian Bond Index ETF
RBC Global Government Bond (CAD Hedged) Index ETF
RBC Canadian Equity Index ETF
RBC U.S. Equity Index ETF
RBC International Equity Index ETF
RBC Emerging Markets Equity Index ETF
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated January 16, 2019
NP 11-202 Receipt dated January 22, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2793652

Issuer Name:
RBC Emerging Markets Balanced Fund
RBC Emerging Markets Equity Focus Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated January 24, 2019
NP 11-202 Receipt dated January 25, 2019
Offering Price and Description:
Series A, Series T5, Series D, Series F, Series FT5 and Series O units
Underwriter(s) or Distributor(s):
Royal Mutual Funds Inc. (Series A)
RBC Global Asset Management Inc. (other than Series A)
Promoter(s):
RBC Global Asset Management Inc.
Project #2854807

Issuer Name:
Sentry All Cap Income Fund
Sentry Canadian Income Fund
Sentry Canadian Income Class
Sentry Diversified Equity Fund
Sentry Diversified Equity Class
Sentry Global Infrastructure Fund
Sentry Small/Mid Cap Income Fund
Sentry Small/Mid Cap Income Class
Sentry U.S. Growth and Income Fund
Sentry U.S. Growth and Income Class
Sentry Global REIT Fund
Sentry Global REIT Class
Sentry Precious Metals Fund
Sentry Precious Metals Class
Sentry Alternative Asset Income Fund
Sentry U.S. Monthly Income Fund
Sentry Corporate Bond Class
Sentry Global High Yield Bond Class
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated January 18, 2019
NP 11-202 Receipt dated January 28, 2019
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2773843

NON-INVESTMENT FUNDS

Issuer Name:
Franchise Holdings International, Inc.
Type and Date:
Amendment #1 dated January 21, 2019 to Preliminary Long Form Prospectus dated October 22, 2018 (Preliminary) Receipted on January 22, 2019
Offering Price and Description:
No securities are being offered pursuant to this amended and restated preliminary prospectus.
Underwriter(s) or Distributor(s):
–
Promoter(s):
Steven Rossi
Project #2832796

Issuer Name:
Prophecy Potash Corp.
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated January 21, 2019
NP 11-202 Preliminary Receipt dated January 22, 2019
Offering Price and Description:
1,800,000 Common Shares
Price: $0.15 per Common Share
$270,000.00
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
Ian McDonald
Project #2865767

Issuer Name:
Monterey Minerals Inc. (formerly 1001886 B.C. Ltd.)
Principal Regulator – British Columbia
Type and Date:
Final Long Form Prospectus dated January 25, 2019
NP 11-202 Receipt dated January 25, 2019
Offering Price and Description:
No securities are being offered pursuant to this Prospectus
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2820562

Issuer Name:
Seabridge Gold Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated January 25, 2019
NP 11-202 Preliminary Receipt dated January 28, 2019
Offering Price and Description:
$100,000,000.00 – COMMON SHARES
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2867312

Issuer Name:
Northern Dynasty Minerals Ltd.
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated January 25, 2019
NP 11-202 Receipt dated January 25, 2019
Offering Price and Description:
US$50,000,000 – Common Shares Warrants Subscription Receipts Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2864385

Issuer Name:
Slate Office REIT
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated January 25, 2019
NP 11-202 Receipt dated January 25, 2019
Offering Price and Description:
$750,000,000.00 – Units, Debt Securities, Subscription Receipts
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2859889

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Accelerate Financial Technologies Inc.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	January 25, 2019
Suspended (Non-Renewal)	Razorbill Advisors Inc.	Commodity Trading Manager	January 1, 2019

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 TSX Inc. – Enhancements to Dark Trading Functionality – Notice of Proposed Changes and Request for Comments

TSX INC.

NOTICE OF PROPOSED CHANGES AND REQUEST FOR COMMENTS

ENHANCEMENTS TO DARK TRADING FUNCTIONALITY

TSX Inc. ("TSX") is publishing this Notice of Proposed Changes in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto".

Market participants are invited to provide comments on the proposed changes. Comments should be in writing and delivered by March 4, 2019 to:

Anastassia Tikhomirova
Legal Counsel, Regulatory Affairs
TMX Group
300-100 Adelaide Street West
Toronto, Ontario M5H 1S3
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West
Toronto, Ontario M5H 3S8
Email: marketregulation@osc.gov.on.ca

Comments will be made publicly available unless confidentiality is requested. Upon completion of the review by Commission staff, and in the absence of any regulatory concerns, notice will be published to confirm completion of Commission staff's review and the Commission's approval.

Background

TSX is seeking to introduce further enhancements to its current dark trading functionality by improving the Contra Midpoint Only (CMO) to better facilitate midpoint trading against orders with a similar longer-term investment objective. The enhanced CMO order type will be referred to as the Contra Midpoint Only Plus (CMO+) order. The existing CMO functionality will not persist as a separate order type upon the introduction of CMO+ to avoid unnecessary competition and confusion with the improved CMO+.

Details and Rationale

The CMO+ order will allow users to simulate the functionality of a dark midpoint match facility by limiting interactions to orders tradeable at the midpoint, and only with other orders that have a similar objective. The CMO+ also provides users with an alternative to midpoint match functionality available on standalone dark markets.

By introducing the CMO+ order, TSX is proposing to enhance the current CMO functionality as follows (the "Proposed Amendments"):

1. Existing CMO attributes to be retained with CMO+:[1]

   - Dark order type that pegs to and only trades at the midpoint of the Protected NBBO
   - Can be submitted between 7:00am and 4:00pm
   - Will only execute between 9:30am and 4:00pm, and subject to the order's limit price
   - Default interaction setting will only allow interaction with other CMO+ orders (Default Option 1)
   - Broker/Time matching priority
   - Minimum Quantity (MinQty), Minimum Interaction Size (MIS) and Post Only features continue to be supported
   - A minimum size for entered CMO+ orders may be applied by TSX (default is 1 boardlot; current minimum entry size for CMO orders is 1 boardlot)[2]
   - Trades between two CMO+ orders will continue to be identified as such on public trade reports, similar to trade prints from standalone dark pools

2. New functionality to be added:

   - Inbound CMO+ orders will be subject to a randomized delay between a lower and upper bound of 400ms and 600ms to incent use by those with longer investment horizons, and for whom a delay of approximately a half-second should not present a barrier to use. The uncertainty introduced by the randomization of the delay will also help to reduce gaming opportunities involving the NBBO reference value.
   - The randomized delay will apply to a Change Former Order (CFO). CFOs would therefore be treated the same as where a user instead chooses to cancel and then enter a new order (in which case the cancel would not be delayed, but the new CMO+ order would).
   - Cancellations will be applied against booked CMO+ orders without order delay.
   - Users will be provided with the option (via optional order entry tag) to specify an interaction setting that will allow the CMO+ order to interact with other resting dark orders, but only upon initial entry of the CMO+ order (Option 2)
     - Once the CMO+ order using the Option 2 interaction setting is booked, it will only interact with other CMO+ orders.
     - Trades involving an incoming CMO+ order using the Option 2 interaction setting against a resting non-CMO+ order will not be identified as a CMO+ trade on public trade reports to be consistent with how trades against regular dark liquidity on TSX are marked.

Where the user relies on the Default Option 1 interaction setting (CMO+ to CMO+ upon entry), priority allocation for resting CMO+ orders will follow the standard TSX priority for dark orders at the same price level – being broker, then time – and will trade only at the midpoint of the Protected NBBO. As is currently the case for CMO orders, the matching of two CMO+ orders will occur irrespective of the existence of any non-CMO+ dark orders resting on the TSX order book at the same (i.e., midpoint) or better price, or with better time priority. In the circumstances where the user relies on Default Option 1, the current CMO matching functionality and all examples detailed in the November 23, 2017 Notice and Request for Comments, for the original CMO order remain the same (other than with respect to the randomized delay to be applied to the incoming CMO+ order).

Where the user chooses the Option 2 interaction setting (to allow its CMO+ order upon entry to interact with any resting dark order priced at or better than the midpoint), priority for resting orders will also follow the standard TSX priority for dark orders – price, broker, and then time – and will trade only at the midpoint of the Protected NBBO.[3] Once the CMO+ order is booked and resting

[1] Information on existing CMO attributes and features is included in TSX's Dark Liquidity Guide, available at: https://www.tsx.com/resource/en/1764/dark-liquidity-guide-v1.pdf.

[2] Any change to minimum size for the entry of CMO+ orders will be made through an Operations Notice, as would currently be the case for the existing CMO functionality.

[3] It will also trade at the midpoint against a resting dark limit order that is better priced than the midpoint as is currently applicable in the case of an incoming regular dark midpoint order when entered on TSX.

on TSX, it will only interact with other CMO+ orders. For clarity, this means that the CMO+ order using the Option 2 interaction setting will experience different interactions when it is first entered as compared to when it is booked.

See **Appendix A** for examples of trades involving a CMO+ order.

Expected Date of Implementation

The proposed changes are expected to become effective in Q3 2019.

Expected Impact

TSX is enhancing its CMO order type to better facilitate interaction between users with longer-term investment horizons.

By enhancing the current CMO order type instead of adding a net new order type, we expect that participants and vendors that have implemented the previous CMO order can utilize CMO+ with minimal to no changes. Changes will be needed where the participant or vendor wishes to use the Option 2 interaction setting to accommodate a new order entry tag.

Expected Impact of Proposed Changes on the Exchange's Compliance with Ontario Securities Law

The proposed changes will not impact TSX's compliance with Ontario securities law and in particular the requirements for fair access and maintenance of fair and orderly markets. TSX will continue to apply appropriate execution logic to ensure conformance with dark price improvement requirements under section 6.6 of UMIR.

Estimated Time Required by Members and Service Vendors to Modify Their Own Systems after Implementation of the Proposed Changes

The CMO+ order is an extension of the previously approved and implemented CMO functionality. We expect that implementation for users that only wish to utilize the Default Option 1 interaction setting will require minimal to no changes. Users that wish to utilize Option 2 to interact against all dark orders will need to adopt a new optional tag in order to be able to specify this option at order entry.

Based on current planned implementation timelines, we anticipate that at least 90 days will be provided between regulatory approval of the proposed change and implementation which should be sufficient to allow adoption by those that wish to take full advantage of the CMO+ order feature.

Do the Changes Currently Exist in Other Markets or Jurisdictions

The CMO+ functionality is an extension of existing CMO functionality on TSX and TSXV, and of dark midpoint functionality available on Canadian equity marketplaces.

Randomized order delay mechanisms are currently employed on TSX Alpha Exchange and Aequitas NEO-N. In the US, Nasdaq also offers a M-ELO (Midpoint Extended Life Order) order type which applies a half-second delay to executable M-ELO upon entry.

APPENDIX A

EXAMPLES INVOLVING CONTRA MIDPOINT ONLY PLUS ORDER

The following examples demonstrate the new proposed functionality for CMO+ orders:

Example 1: *CMO+ (Default Option 1) order is delayed upon order entry, and is booked at the price of the Protected NBBO ("PNBBO") after the order delay.*

Quote changes are as follows:

	Order Ref #	BID order type	Lit / Dark	Timestamp	Volume	BID	ASK
PNBBO				*10:00:00.00*		*10.00*	*10.05*
TSX	*1*	*CMO+ incoming order*	*Dark*	*10:00:00.00*	*5,000*	*Order delayed*	
PNBBO				*10:00:00.50*		*10.00*	*10.04*
TSX	*1*	*CMO+ order released from delay and is booked*	*Dark*	*10:00:00.55*	*5,000*	*10.02*	
PNBBO				*10:00:01.00*		*10.01*	*10.04*
TSX	*1*	*CMO+ order re-priced at new mid-point*	*Dark*	*10:00:01.00*	*5,000*	*10.025*	

Action: Order #1 received at 10:00:00.00 – A buy CMO+ order for 5,000 shares with a limit price of $10.03.

Result: The CMO+ order is subject to the randomized delay (held for 550 ms in this case). Once it is released (at 10:00:00.55, it is booked at the mid-point of the PNBBO, which at the time of booking is $10.02. When the PNBBO changes again at 10:00:01.00, the CMO+ order is re-priced to the new mid-point of $10.025 without any delay.

Example 2: *CMO+ order (Default Option 1) trades against only CMO+ orders bypassing all other non-CMO+ orders.*

Book as follows:

	Order Ref #	BID order type	Lit / Dark	Timestamp	Volume	BID	ASK
PNBBO						*10.00*	*10.05*
TSX	1	Limit	Dark	10:00:05	1,000	10.03	
TSX	2	Midpoint (non-CMO+)	Dark	10:00:02	2,000	10.025	
TSX	3	CMO+ (Option 2)	Dark	10:00:09	5,500	10.025	

Action: Order #4 is released from the delay mechanism after a 572 millisecond delay – A sell CMO+ order (Default Option 1) for 4,000 shares marked IOC with a limit price of $10.02.

Result: Upon release from the delay mechanism, Order #4 will trade 4,000 shares against Order #3 at the midpoint ($10.025), on the basis that Order #4 will only interact with a resting contra-side CMO+ order by virtue of the Default Option 1 interaction setting. Orders #1 and #2 are bypassed despite being better priced and/or having better time priority, by virtue of being non-CMO.

Example 2.1: *CMO+ order (Option 2) trades against all dark orders tradeable at the mid-point in order of standard dark priority and then books.*

Same book as follows:

	Order Ref #	BID order type	Lit / Dark	Timestamp	Volume	BID	ASK
PNBBO						*10.00*	*10.05*
TSX	1	Limit	Dark	10:00:05	1,000	10.03	
TSX	2	Midpoint (non-CMO+)	Dark	10:00:02	2,000	10.025	
TSX	3	CMO+ (Option 2)	Dark	10:00:09	5,500	10.025	

Action: Order #4 is released from the delay mechanism after a 425 millisecond delay – A sell CMO+ order (Option 2) for 4,000 shares marked IOC with a limit price of $10.02.

Result: Upon release from the delay mechanism, Order #4 will trade 1,000 shares against the non-CMO+ Order #1 at the midpoint ($10.025), on the basis that Order #1 has the highest priority due to the best price, and because Order #4 has selected the 'Option 2' interaction setting. Similarly, Order #4 will then trade 2,000 shares against the non-CMO+ Order #2 at the midpoint ($10.025) since it has the next best priority based on price and time. It will then trade the remaining 1,000 shares against Order #3 at the midpoint ($10.025) as the next best priority. Note that trades against Order #1 and Order #2 are not marked as CMO+ trades, but the trade against Order #3 will be marked as a CMO+ to CMO+ trade.

Example 3: *Booked CMO+ orders (Default Option 1, Option 2) will not trade against incoming non-CMO+ orders.*

Book as follows:

	Order Ref #	BID order type	Lit / Dark	Timestamp	Volume	BID	ASK
PNBBO						*10.00*	*10.05*
TSX	1	CMO+ (Default Option 1)	Dark	10:00:01	5,500	10.025	
TSX	2	CMO+ (Option 2)	Dark	10:00:08	2,000	10.025	
TSX	3	Midpoint (non-CMO+)	Dark	10:00:07	1,000	10.025	
TSX	4	Limit	Visible	10:00:03	2,000	10.00	

Action: Order #5 received – A sell limit order for 2,000 shares priced at $10.00.

Result: Order #5 will trade 1,000 shares against Order #3 at the midpoint ($10.025) and the remaining 1,000 shares against resting visible limit Order #4 at $10.00 on the basis that the better-priced resting CMO+ buy orders will only interact with another incoming CMO+ order.

13.3 Clearing Agencies

13.3.1 The Canadian Depository for Securities Limited and CDS Clearing and Depository Services Inc.

THE CANADIAN DEPOSITORY FOR SECURITIES LIMITED
(CDS LTD.)

AND

CDS CLEARING AND DEPOSITORY SERVICES INC.
(CDS CLEARING)

The Ontario Securities Commission (**Commission**) issued an order pursuant to section 147 of the *Securities Act* (Ontario) on January 19, 2019 (**Order**) exempting CDS Ltd. and CDS Clearing from certain financial reporting requirements.

The Order is published in Chapter 2 of this Bulletin.

Chapter 25

Other Information

25.1 Consents

25.1.1 MPX Bioceutical Corporation – s. 4(b) of Ont. Reg. 289/00 under the OBCA

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under British Columbia Business Corporations Act.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00, AS AMENDED
(the REGULATION) UNDER
THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O.1990, c. B.16, AS AMENDED
(the OBCA)

AND

IN THE MATTER OF
MPX BIOCEUTICAL CORPORATION

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of MPX Bioceutical Corporation (the **Applicant**) to the Ontario Securities Commission (the **Commission**) requesting the Commission's consent to the Applicant continuing in another jurisdiction pursuant to section 181 of the OBCA (the **Continuance**);

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is an offering corporation under the OBCA.

2. The Applicant's common shares (the **Common Shares**) are listed and posted for trading on the Canadian Securities Exchange (the **CSE**) under the symbol “MPX” and on the over-the-counter markets in the United States of America (together with the CSE, the Exchanges) under the symbol “MPXEF”; as at January 1, 20l9 the Applicant had 409,153,019 issued and outstanding Common Shares.

3. The Applicant intends to apply to the Director pursuant to section 181 of the OBCA (the **Application for Continuance**) for authorization to continue as a corporation under the *Business Corporations Act* (British Columbia), S.B.C. 2002, c.57 (the **BCBCA**).

4. The Application for Continuance is being made in order to effect an amalgamation with 1183271 B.C. Unlimited Liability Company, a wholly owned subsidiary of iAnthus Capital Holdings, Inc. (**iAnthus**) pursuant to the terms and conditions of an arrangement agreement entered into among the Applicant, iAnthus, 1183271 B.C. Unlimited Liability Company and MPX International Corporation (formerly 2660528 Ontario Inc.), a wholly-owned subsidiary of the Applicant, dated October 18, 2018.

5. The material rights, duties and obligations of a corporation governed by the BCBCA are substantially similar to those of a corporation governed by the OBCA.

6. The Applicant is a reporting issuer under the *Securities Act*, R.S.O. l990, c.S.5, as amended (the **Act**), the *Securities Act* (British Columbia), R.S.B.C. 1996, c.418 (the **BCSA**) and the *Securities Act* (Alberta), R.S.A. 2000, c. S-4 (together with the BCSA, the **Legislation**) and will remain a reporting issuer in these jurisdictions following the Continuance.

7. The Applicant is not in default of any of the provisions of the OBCA, the Act or the Legislation, including the regulations made thereunder.

8. The Applicant is not subject to any proceeding under the OBCA, the Act or the Legislation.

9. The Applicant is not in default of any provision of the rules, regulations or policies of the Exchanges.

10. The Commission is the principal regulator of the Applicant.

11. Following the Continuance, the Applicant's registered office, which is currently located in Ontario, will be relocated to British Columbia at 1700-666 Burrard Street, Vancouver, British Columbia, V6C 2X8, the applicant's head office will remain at 701-5255 Yonge Street, Toronto, Ontario, M2N 6P4 and the Applicant intends to have the British Columbia Securities Commission be its principal regulator.

12. The Applicant's management information circular dated December 11, 2018 for a special meeting of securityholders, held on January 15, 2019 (the **Meeting**) described, inter alia, the proposed Continuance and disclosed the reasons for it and its implications.

13. The Applicant's shareholders authorized the Continuance at the Meeting by a special resolution that was approved by 99.48% of the votes cast; no shareholder exercised dissent rights pursuant to section 185 of the OBCA.

14. Subsection 4(b) of the Regulation requires the Application for Continuance to be accompanied by a consent from the Commission.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest;

THE COMMISSION CONSENTS to the continuance of the Applicant under the BCBCA.

DATED at Toronto, Ontario on this 15th day of January 2019.

"Anne Marie Ryan"
Ontario Securities Commission

"Cecilia Williams"
Ontario Securities Commission

25.1.2 Mezzotin Minerals Inc. – s. 4(b) of Ont. Reg. 289/00 under the OBCA

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under British Columbia Business Corporations Act.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00, AS AMENDED
(the REGULATION) UNDER
THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990 c. B.16, AS AMENDED
(the OBCA)

AND

IN THE MATTER OF
MEZZOTIN MINERALS INC.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of Mezzotin Minerals Inc. (the "**Applicant**") to the Ontario Securities Commission (the "**Commission**") requesting the Commission's consent to the Applicant continuing in another jurisdiction pursuant to section 181 of the OBCA (the "**Continuance**");

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is an offering corporation under the OBCA.

2. The Applicant's common shares (the "**Common Shares**") are listed and posted for trading on the NEX Board of the TSX Venture Exchange (the "**Exchange**") under the symbol "MEZ.H"; as at December 17, 2018 the Applicant had 56,994,069 issued and outstanding Common Shares.

3. The Applicant intends to apply to the Director pursuant to section 181 of the OBCA (the "**Application for Continuance**") for authorization to continue as a corporation under the *Business Corporations Act* (British Columbia), S.B.C. 2002, c. 57 (the "**BCBCA**").

4. The Application for Continuance is being made to give the Applicant more flexibility under the provisions of the BCBCA in respect of financing opportunities, the absence of residency requirements for directors and other corporate transactions which may be effected by the Applicant in the future.

5. The material rights, duties and obligations of a corporation governed by the BCBCA are substantially similar to those of a corporation governed by the OBCA.

6. The Applicant is a reporting issuer under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**"), the *Securities Act* (British Columbia), R.S.B.C. 1996, c. 418 (the "**BCSA**") and the *Securities Act* (Alberta), R.S.A. 2000, c. S-4 (together with the BCSA, the "Legislation") and will remain a reporting issuer in these jurisdictions following the Continuance.

7. The Applicant is not in default of any of the provisions of the OBCA, the Act or the Legislation, including the regulations made thereunder.
8. The Applicant is not subject to any proceeding under the OBCA, the Act or the Legislation.

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

10. The Commission is the principal regulator of the Applicant.

11. Following the Continuance, the Applicant's registered office, which is currently located in Ontario, will be relocated to British Columbia, and the Applicant intends to have the British Columbia Securities Commission be its principal regulator.

12. The Applicant's management information circular dated December 17, 2018 for its annual general and special meeting of shareholders, held on January 16, 2019 (the "**Shareholders Meeting**") described the proposed Continuance and disclosed the reasons for it and its implications.

13. The Applicant's shareholders authorized the Continuance at the Shareholders Meeting by a special resolution that was approved by 100% of the votes cast; no shareholder exercised dissent rights pursuant to section 185 of the OBCA.

14. Subsection 4(b) of the Regulation requires the Application for Continuance to be accompanied by a consent from the Commission.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest;

THE COMMISSION CONSENTS to the continuance of the Applicant under the BCBCA.

DATED at Toronto, Ontario this 22nd day of January, 2019.

"Lawrence P. Haber"
Commissioner
Ontario Securities Commission

"Janet Leiper"
Commissioner
Ontario Securities Commission

25.2 Approvals

25.2.1 Waypoint Investment Partners Inc. – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager that is registered as an investment fund manager, portfolio manager and exempt market dealer under the Securities Act, with no prior track record acting as trustee, for approval to act as trustee of pooled funds and future pooled funds to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

January 28, 2019

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

Attention: Nick Badeen

Dear Sirs/Mesdames:

Re: Waypoint Investment Partners 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. 2018/0652

Further to your application dated November 15, 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 the All Weather Fund and the Partners Performance 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 the All Weather Fund and the Partners Performance 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,

"Deborah Leckman"
Commissioner

"Robert P. Hutchison"
Commissioner

25.2.2 Crimson Asset Management Ltd. – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act (Ontario) – 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).

January 25, 2019

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower, Suite 3800
200 Bay Street, P.O. Box 84,
Toronto, ON M5J 2Z4 Canada

Attention: Michael Bunn

Dear Sirs/Mesdames:

Re: Crimson Asset Management Ltd. (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. 2018/0727

Dear Sirs/Mesdames,

Further to your application dated December 18, 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 Crimson Partners Small Cap RSP Fund (the 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 the Fund and any future mutual fund trusts that 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
Ontario Securities Commission

"Anne Marie Ryan"
Commissioner
Ontario Securities Commission

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