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1.1 Notices

1.1.1 OSC Notice 11-786 – Notice of Statement of Priorities for Financial Year to end March 31, 2020

OSC NOTICE 11-786

NOTICE OF STATEMENT OF PRIORITIES FOR FINANCIAL YEAR TO END MARCH 31, 2020

The *Securities Act* (Act) requires the Ontario Securities Commission (OSC or Commission) to deliver to the Minister of Finance by June 30th of each year a statement from the Commission setting out its priorities for its current financial year in connection with the administration of the Act, the regulations and rules, together with a summary of the reasons for the adoption of the priorities.

In the Notice published by the Commission on March 28, 2019, the Commission set out its draft 2019-2020 Statement of Priorities (SoP) and invited public input. Sixteen responses were received, and we thank the commenters for their input.

The main themes of our 2019-2020 SoP support the Ontario Government's priorities to make Ontario "Open for Business" and to "Build more Efficient Regulators" and specifically focus on delivering the objectives outlined in the Five-Point Capital Markets Plan contained in the April 2019 Budget. Accordingly, the OSC has added the following three additional priorities to the SoP:

- Enhance economically-focused rule-making
- Establish the Office of Economic Growth and Innovation
- Ensure competitiveness and clear service standards.

The SoP also includes additional initiatives under existing priorities to address specific Government focus areas.

On balance, the feedback was broadly supportive of the overall direction of our new OSC goals and proposed priorities. A high-level summary of key comment areas is set out below:

1. There was overwhelming support for our planned initiatives to reduce regulatory burden. This is a key goal for the OSC and we continue to believe that our markets are better able to compete, innovate and flourish with regulation that is proportionate to the regulatory objectives sought. The OSC is committed to re-examining its rules and processes to ensure they are appropriate, necessary and relevant, to identify opportunities to reduce undue burden and streamline regulation, and confirm that the regulations are appropriate and necessary, while maintaining appropriate safeguards for investors.
2. Our proposed priorities to "Continue Consulting on Client Focused Reforms" and "Continue CSA Policy Consultations on Mutual Funds Embedded Commissions" attracted the most comments. While there was consistent support for the identified broad outcomes, some respondents favoured more consultation while others wanted us to reach decisions and move forward. Respondents generally favoured a harmonized CSA approach; however, others noted that they would support the OSC moving forward on its own if a consensus could not be reached in a timely manner. Some respondents requested more clarity on the process and potential timing of any key milestones or decisions as they believed this would be useful in developing their own implementation requirements and plans. The OSC will address this request where practical.
3. Various respondents expressed support and the need for action to address advisor titles and proficiency standards. This issue was also recently highlighted in the April 2019 Ontario Budget. Implementation of this initiative will be led by the Financial Services Regulatory Authority (FSRA).
4. Respondents continue to be supportive of the focus areas and work of the OSC Investor Office including expanding stakeholder engagement, investor research and education, and financial literacy. The OSC and its Investor Office will be undertaking a range of initiatives to address these and other key investor protection issues including execution of the action items set out in our OSC Seniors Strategy to protect older investors.

5. Respondents continue to view regulatory harmonization, both across the CSA and internationally, as an important outcome.
6. Respondents expressed support for action to address environmental, social and governance (ESG) factors including the need for enhanced ESG disclosure by companies and continued focus on the Women on Boards and Executive Positions and diversity issues. Although the OSC did not add a specific priority related to these issues, these issues will continue to be very important and the OSC will continue to monitor developments in this area and work with the CSA to identify opportunities to improve ESG related disclosure.
7. There was strong support for OSC plans to continue to work with Fintech entities as they seek to bring innovative solutions into our capital markets. We will work to strengthen our efforts in this area as we establish the Office of Economic Growth and Innovation.
8. Respondents remain supportive of efforts to increase our use of data and evidence based decision-making and wider use of cost benefit analysis including post-implementation reviews. The OSC is strongly committed to achieving these outcomes.
9. Respondents highlighted the growing importance of cyber resilience and data security to protect our capital markets. Although not set out as a priority, these areas will remain a key area of focus and the OSC will continue to work with the CSA to periodically update and conduct testing of the CSA Market Disruption Coordination Plan, which includes steps for information sharing and coordination in the event of a market disruption including one that stems from a large-scale cybersecurity incident.
10. Some respondents recommended adding shareholder democracy issues such as “say on pay”, and proxy voting as a priority. We will continue to monitor shareholder democracy activities and issues to determine whether there is a need for further action in these areas.

Most comments related to the planned establishment of the Cooperative Capital Markets Regulatory System (CCMR) were supportive of the initiative. However, among the respondents who supported CCMR, a few stated that, unless CCMR would be truly national in scope, it may be prudent to shift our focus to improving CSA harmonization, including the adoption of the Passport system. The OSC will continue to work collaboratively with Ontario’s Ministry of Finance, other participating provincial and territorial jurisdictions and the federal government, to further the implementation of the CCMR. At the same time, we will maintain an engaged and effective regulatory presence including a cooperative interface with the CSA.

The OSC remains committed to policy development that balances the desire to be timely with the need to achieve harmonized outcomes that best meet the needs of Ontario investors and market participants. The OSC’s core regulatory work will always be its primary area of focus. The SoP sets out our highest priority areas, what we will deliver during the year under those priorities and how we will measure our performance. The other important initiatives and issues identified for inclusion by various respondents will be provided to staff for consideration and many of these are already addressed within our branch business plans or will be considered for future work.

All comment letters received are available on our website www.osc.gov.on.ca. The SoP will serve as the guide for the Commission’s operations. Following delivery of the SoP to the Minister of Finance, we will also publish on our website a report on our progress against our 2018-2019 priorities.

[Editor’s note: The Statement of Priorities for Financial Year to end March 31, 2020 follows on separately numbered pages. Bulletin pagination resumes at the end of the Statement.]

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2019-2020

OSC
Statement of
Priorities

INTRODUCTION

OSC Statement of Priorities

We are pleased to present the OSC Chair's Statement of Priorities for the Ontario Securities Commission for the year commencing April 1, 2019. The *Securities Act* (Ontario) requires the OSC to publish the Statement of Priorities in its Bulletin and to deliver it to the Minister by June 30 of each year. This Statement of Priorities also supports the OSC's commitment to be both effective and accountable in delivering its regulatory services.

The OSC regulates the largest capital market in Canada and our actions have impacts for Ontario and the rest of Canada. The OSC remains committed to promoting fair and efficient markets in Ontario and has identified a broad range of initiatives to improve the existing regulatory framework. We strive to anticipate problems in the market and act decisively to promote public confidence in our capital markets, protect investors, and support market integrity. We will continue to proactively identify emerging issues, trends, and risks in our capital markets.

Confidence in fair and efficient markets is a prerequisite for economic growth. Investor protection is always a top priority for the OSC. The OSC engages with investor advocacy groups to gain insights to better understand investor needs and interests.

The OSC continues to move the regulatory agenda forward, improving the way we approach our work and engage with industry participants and other regulators to understand the issues and their concerns. The OSC interacts broadly with all stakeholders through various advisory committees, roundtables and other means of consultation to inform operational approaches and policy development.

Our significant work in the international regulatory environment will continue as another key means to gain insights into emerging issues and standards that can be integrated into our policy development and oversight activities. These actions are essential to reach solutions that balance the inclusion of innovation and competition in the marketplace while maintaining appropriate investor safeguards.

The OSC works as part of the Canadian Securities Administrators (CSA) to harmonize rules and their application across the country. The OSC is working with the Ontario government and the OSC's counterparts in other participating jurisdictions to develop a harmonized regulatory approach and seamless transition to the proposed Cooperative Capital Markets Regulatory System (CCMR).

INTRODUCTION

Vision, Mandate and Goals

Our Vision

To be an effective and responsive securities regulator – fostering a culture of integrity and compliance and instilling investor confidence in the capital markets.

Our Mandate

To provide protection to investors from unfair, improper or fraudulent practices, to foster fair and efficient capital markets and confidence in capital markets and to contribute to the stability of the financial system and the reduction of systemic risk.

Our Organizational Goals

PROMOTE

Confidence in Ontario's Capital Markets

- Promote confidence in Ontario's capital markets among market participants and investors

REDUCE

Regulatory Burden

- Enhance access for businesses and financial services providers to Ontario's capital markets

FACILITATE

Financial Innovation

- Cultivate an environment that supports development of innovative financial business models



Strengthen Our Organizational Foundation

People

Technology

Information

INTRODUCTION

Key Priorities

Our 2019-2020 Statement of Priorities (SoP) sets out the priority areas on which the OSC intends to focus its resources and actions in 2019-2020. The OSC has identified four regulatory goals. This SoP sets out the priority initiatives that the OSC will pursue in support of each of these strategic goals including delivering the objectives outlined in the Ontario Government's Five-Point Plan to create confidence in the capital markets in the April 2019 Ontario Budget "Protecting What Matters Most" (Five-Point Plan).

The SoP also describes the environmental factors that the OSC has considered in setting these goals. It is important to note that the majority of OSC resources are focused on delivering the core regulatory work (authorizations, reviews, compliance, enforcement and the systems and infrastructure to support that work) undertaken by the OSC to maintain high standards of regulation in Ontario's capital markets.

Promote Confidence in Ontario's Capital Markets

Promote confidence in Ontario's capital markets among market participants and investors

- Continue Consulting on Client Focused Reforms
- Continue CSA Policy Consultations on Mutual Funds Embedded Commissions
- Improve the Retail Investor Experience
- Expand Systemic Risk Oversight of Derivatives
- Timely and Impactful Enforcement Actions
- Enhance Economically-Focused Rule-Making
- Support Transition to the Cooperative Capital Markets Regulatory System (CCMR)

Reduce Regulatory Burden

Enhance access for businesses and financial services providers to Ontario's capital markets

- Engage with Stakeholders on Burden Reduction Opportunities
- Initiate OSC Website Redevelopment

Facilitate Financial Innovation

Cultivate an environment that supports development of innovative financial business models

- Engage with the Fintech/Start-Up Sector
- Establish the Office of Economic Growth and Innovation
- Implement Alternative Funds Regime

Strengthen Our Organizational Foundation

- Implement Strategic Workforce Planning (SWP)
- Continue National Systems Renewal Program (NSRP)
- Implement First Phase of Market Analysis Platform (MAP)
- Modernize OSC Technology Platform
- Build a Data Driven, Evidence Based and Risk Focused Organization
- Ensure Competitiveness and Clear Service Standards

THE ENVIRONMENT

Scan and Impact

Environmental factors influence securities regulators in their operations and regulatory oversight. Key challenges and issues that may influence the OSC's policy agenda, its operations, and the way it uses its resources, are as follows.

Globalization

The potential impact of continuing geopolitical events, such as Brexit implementation, decisions by the US government and changing trade relationships could have profound impacts on financial regulation globally. The global interconnectedness of markets and mobility of capital create a strong need for harmonization and coordination of regulation. However, the potential for increased protectionism and de-regulation could inhibit global harmonization and create opportunities for regulatory arbitrage.

The markets, products, and participants that the OSC regulates and oversees continue to grow in size and complexity. Globalization of financial markets, products and services adds another layer to these challenges. The sustained growth of cross-border activities raises challenges to regulatory supervision, magnifies the value of cooperation between regulators and increases the benefit of achieving consistent standards and requirements both domestically and internationally.

The OSC works as part of the CSA to harmonize rules and their application across the country to facilitate business needs. Through these efforts, the OSC strives to achieve effective cross-jurisdiction enforcement and gain timely insight, understanding and input into emerging regulatory issues to achieve better regulatory outcomes.

Our international involvement informs how we regulate Ontario's capital markets. The OSC continues to play an active role in international organizations such as the International Organization

of Securities Commissions (IOSCO) to influence and promote changes to international standards for securities regulation and share new ideas and learnings that will benefit Ontario markets and participants.

Regulatory Burden

A more competitive environment demands that securities regulators must balance pressures to respond to market issues while avoiding over-regulation. Regulatory costs should be proportionate to the regulatory objectives sought. Regulatory burden, along with the associated costs, is a key focus for many market participants and the Ontario government. The thrust to reduce the regulatory burden on business may require the need to simplify, remove and/or re-engineer our processes and systems. The need for a cost-effective regulatory framework, with proportionate regulation that supports innovation and competition – while maintaining appropriate investor protections – is critical. By re-examining our processes and rules or guidance, as well as implementing a cost-benefit analysis, to identify opportunities to reduce undue burdens and streamline regulation, the OSC can confirm they are appropriate and necessary while maintaining appropriate safeguards for investors.

Technology and Innovation

The pace of technological evolution and innovation creates challenges to develop and maintain a responsive and aligned regulatory framework. Market participants continue to expand their product and service offerings. Fintech (technology facilitated financial services) and Regtech (technology facilitated regulatory compliance services) innovation continues to advance and is a key disruptive force in the financial services industry. Complexity driven by financial innovation offers many potential benefits and risks to the market. Fintech is leveraging new technology

and creating new business models in the financial services industry such as providing new product offerings (e.g. blockchain-based crypto assets) and disrupting service channels (e.g. online advisors). Financial services firms are using technological innovation, digitalization and growth in the use of the distributed ledger technology to reduce operational costs and improve efficiency.

The breadth and pace of innovation in the financial sector could result in gaps in regulation or become a source of non-compliance. For example, the potential applications and impacts of Artificial Intelligence (AI) are significant but are not well understood.

Modernize Financial Regulation

The Government of Ontario has identified initiatives to modernize the financial services regulatory framework. These policy priorities and changes in regulatory authority will impact the OSC and its operations including:

- Changes to the regulatory oversight of syndicated mortgage investments by the Financial Services Commission of Ontario and the OSC
- Title reform for financial planners and financial advisors
- Working with CCMR partners on the transition of the OSC to the proposed CCMR.

Growing Importance of Investor Education

As the responsibility for investing shifts to individuals, they are challenged to achieve the returns needed to finance future needs. There are wide gaps in the levels of investment experience and financial literacy among investors. Investor education has the potential to contribute to improved financial outcomes for investors and is an important component of investor protection.

The OSC is actively involved in providing investor education tools and resources to help investors achieve improved financial outcomes. The ability to achieve meaningful progress in financial literacy levels will be a key to strengthening investor protection. Investors with a greater level of understanding of financial concepts are better able to make informed investment decisions and avoid

fraud. The OSC will seek new and innovative ways to deliver investor education and support retail investors in today's complex investing environment.

Changing Demographics and Investor Needs

Demographics are critical to understanding investor needs and are a key driver of most investor-focused issues. Different investor segments (e.g. seniors versus millennials) have unique characteristics and present different challenges in terms of investment objectives and horizons. Their preferences can vary in terms of products (ETFs versus mutual funds) and service channels. Automated financial advice is redefining the delivery of client wealth management services and the fees charged for advice.

Investor Redress

Investors can be at risk for potential losses from improper or fraudulent interactions. Regulators are seeking ways to improve investor access to redress in these types of situations. Avenues to obtain investor redress, including an effective and fair dispute resolution system, are increasingly being included as part of investor protection frameworks. To achieve better results for investors, the OSC will continue its support for OBSI in its role as the independent dispute resolution service made available to investors.

Enforcement and Compliance Tools

Strong compliance oversight and enforcement are essential to maintaining the integrity and attractiveness of our capital markets. Disruption of illegal activity and deterrence are key strategies to prevent or limit harm to investors. Our actions against firms and individuals who do not comply with the rules need to be strong and visible to achieve the desired deterrent effect and enhance public confidence in our markets. Effective deterrence is better achieved through partnering with law enforcement agencies responsible for investigating criminal misconduct. The OSC continues to work with our policing partners to apply our combined expertise to tackle complex white-collar crime.

As securities fraud and misconduct become increasingly complex, regulators must evolve their compliance and enforcement approaches and

expand their tools. Technology is enabling growth in cross-border activities that are detrimental to investors and very difficult to address. This creates challenges in supervision, surveillance and enforcement. If regulatory approaches are not aligned, cross-border supervision and enforcement efforts can be impeded.

Systemic Risk and Financial Stability

The OSC works with many domestic and international regulators to monitor financial stability risks and trends, improve market resilience, and reduce the potential risk of global systemic events. The OSC is continuing to build out a domestic derivatives framework and to operationalize the necessary compliance and investigation tools required to achieve a practical and effective regime.

As part of their review of market stability issues, financial system regulators are examining the need for companies to disclose exposure to economic, environmental and social sustainability risks, including climate change. The Financial Stability Board (FSB) has established a Task Force on Climate-related Financial Disclosures to develop a set of recommendations for consistent, comparable, reliable, clear and efficient climate-related disclosures by companies. The OSC will continue to monitor developments in this area.

Cybersecurity Resilience

Cyber-attacks that have the potential to disrupt our markets and market participants are likely to occur. Growing dependence on digital connectivity is raising the potential for digital disruption in our financial services and markets and creating a strong imperative to raise awareness about cyber-attacks and strengthen cybersecurity resilience. This is a growing challenge as more businesses, services and transactions span national and international borders. The OSC, working with other regulatory partners, has an important role to play in assessing and promoting readiness and supporting

cybersecurity coordination and resilience within the financial services industry and raising awareness of cybersecurity risks.

Data Management

Ever increasing market complexity is generating greater availability and reliance on data. The OSC is adding new tools and processes to support staff in delivering their responsibilities. A key element will be addressing challenges in managing growing volumes of data, including information security. The OSC is investing in information technology and infrastructure to support an integrated data management program that will improve access to information to identify trends and risks and support analysis and decision-making. This will also allow easier filings and access for market participants.

Workforce Strategy

The ability to meet the identified goals and strategic objectives is dependent upon obtaining sufficient and appropriate resources. To meet evolving needs, the OSC will strengthen its capabilities through its people. While attracting, motivating and retaining top talent in a competitive market environment continues to be challenging, the OSC is building its capabilities and skills by recruiting staff across a range of disciplines, and by developing the skills and experience of our internal talent.

THE ENVIRONMENT

Major Planning Themes

The OSC is committed to fostering confidence in Ontario's capital markets, supporting an environment where capital is available on competitive terms, streamlining regulation with a strengthened focus on reducing regulatory burden and maintaining Ontario's financial services sector as a world leader and significant contributor to the province's economy. The main themes of our 2019-2020 OSC Statement of Priorities support the Ontario government's priorities to make Ontario "Open for Business" and to "Build more Efficient Regulators" and specifically focus on delivering the objectives outlined in the Five-Point Plan.

Reduce Regulatory Burden

Delivering responsive regulatory oversight includes being mindful of the impact of regulatory burden on market participants. Reducing red tape will boost productivity, competitiveness and investment. The OSC is re-examining its rules and processes to ensure they are appropriate, necessary and with its CSA partners has identified and is pursuing opportunities to reduce undue burdens and streamline regulation without impeding the ability of the OSC to fulfill its responsibility to protect investors. Together with reducing red tape, the OSC is looking at ways to improve the investor experience, by seeking to modernize the information provided to investors or other interactions that investors have with issuers and registrants. The OSC continues to seek opportunities to make its interface with market participants easier and less costly, including the implementation of electronic solutions to make submission of data easier for market participants.

Support Innovation to Attract Investment in Ontario

The April 2019 Ontario Budget identified the Ontario government's plans to propose amendments to capital markets legislation to facilitate greater economic growth through

innovation in Ontario's capital markets and more economically focused rule-making. The OSC will work to meet this commitment by actively supporting business innovation through initiatives such as the establishment of the Office of Economic Growth and Innovation and ongoing work in the OSC LaunchPad, the CSA Regulatory Sandbox and globally through the Global Financial Innovation Network (GFIN), to support fintech businesses seeking to offer innovative products, services and applications in Canada. These initiatives are critical to creating a globally competitive, efficient and strong capital markets regulatory system that attracts investments from around the world, streamlines capital raising for businesses and protects investors from financial system risk and misconduct.

Invest in Technology to Support a More Data Driven OSC

The OSC supports the government's broader efforts to ensure services are delivered in the most efficient and effective ways possible. The OSC needs to invest in technology, systems infrastructure and expertise to expand and modernize its technology platform. These investments will be used to replace outdated systems and build the foundation to allow the OSC to become a data driven, evidence based, risk focused organization. Agile organizations make data-driven rather than subjective decisions. The OSC will strive to simplify, modernize and enhance the data that it collects. Development of a robust data and analytics framework for decisions will allow the OSC to deliver service outcomes that clearly demonstrate value for money to all stakeholders.

Support Transition to the CCMR

As set out in the April 2019 Ontario Budget, Ontario's Minister of Finance plays a leadership role and works collaboratively with other participating

provincial and territorial jurisdictions and the federal government, to further the implementation of the CCMR. The CCMR would make capital markets in Canada stronger, more efficient and more globally competitive. It would also better protect investors from financial system risk and misconduct. It would offer real benefits for Ontario businesses by streamlining the requirements associated with the raising of capital, which in turn allows individuals and families to save and invest with confidence, while helping to create jobs and boost economic growth.

The OSC will support the proposed transition to CCMR by committing resources to support workstream activities to develop effective legislation, regulations and efficient regulatory oversight processes and support implementation of the CCMR as a streamlined capital markets regulatory system.

OUR GOALS

Promote Confidence in Ontario's Capital Markets

The OSC shares the Ontario government's commitment to making Ontario's capital markets globally competitive and making Ontario the most attractive place in North America in which to invest, grow businesses and create jobs. We will promote confidence in Ontario's capital markets among market participants and investors by engaging and educating investors; exercising effective compliance oversight; and pursuing timely and vigorous enforcement. To achieve globally competitive, efficient and strong capital markets and a regulatory system that attracts investment from around the world will require the OSC to effectively balance the need to streamline capital raising for businesses, while protecting investors from financial system risk and misconduct.

OUR KEY PRIORITIES

Continue Consulting on Client Focused Reforms

Advance amendments to registrant conduct requirements to better align the interests of securities advisers, dealers and representatives (registrants) with the interests of clients and improve outcomes for clients.

Actions will include:

- Implement recommendations based on the review of comment letters
- Publish rule amendments and Companion Policy Guidance
- Determine next steps in consultation with the CSA and other stakeholders on other identified initiatives

Planned Outcomes

- Better disclosure on product and service offerings reduces information asymmetry for investors
- Client outcomes enhanced when conflicts of

interest are addressed in the client's best interest.

- Improved suitability determinations for clients when client's interests are put first.

Continue CSA Policy Consultations on Mutual Funds Embedded Commissions

With the CSA, develop responses to the proposals published for comment in September 2018.

Planned Outcomes

- Revised proposals developed and published for comment.

Improve the Retail Investor Experience

Investors need the tools to make informed investment decisions. The OSC will undertake efforts to improve the investor experience and investor protection. Efforts will focus on engaging stakeholders, identifying appropriate areas for improvement, and taking steps to help investors to be better-informed when making investment decisions.

Actions will include:

- Improve effectiveness of OSC policies and outcomes for retail investors through integration of behavioural insights
- Seek ways to improve the investor experience through disclosure innovations, plain language initiatives, improving investor tools and resources, and adopting customer-centric principles in a variety of work areas
- Advance investor protection through financial literacy and investor education programs
- Increase partnerships with stakeholders and community groups interested in investor education initiatives
- Collaborate with the Ministry of Education to enhance the financial literacy curriculum.

The OSC will continue to work toward our vision of a stronger and more secure financial future for all Ontario Seniors.

Actions will include:

- Continue to implement the OSC Seniors Strategy, which includes addressing issues of financial exploitation and cognitive decline
- Continue to evolve strategy to address emerging challenges facing older and vulnerable investors
- Provide educational and regulatory tools to registrants to help them meet the needs and priorities of older and vulnerable investors.

Planned Outcomes

- Greater use of educational resources by investors, including online access
- Delivery of outreach sessions and resources for seniors and new Canadian community groups
- Consultation with stakeholders on ways to improve the investor experience
- Existing partnerships strengthened and new external relationships created to inform and advance investor focused initiatives
- Publication of a staff notice and rule amendments for comment to address financial exploitation of seniors and vulnerable investors.

Expand Systemic Risk Oversight of Derivatives

The OSC will continue to build out its regulatory framework through various policy and operational initiatives.

Actions will include:

- Publish a proposed business conduct rule and develop a registrant regulation framework
- Develop a compliance review program for derivatives market participants
- Establish a monitoring regime for data relevant to the applicability of a proposed margin rule for uncleared derivatives to Ontario entities
- Improve quality and completion of trade reports to improve systemic risk monitoring and enforcement
- Propose amendments to Trade Reporting rule to accommodate internationally adopted data standards
- Publish final amendments to Clearing rules regarding applicability to affiliates.

Planned Outcomes

- Framework for analyzing OTC derivatives data for systemic risk oversight and market conduct purposes is in place and provides improved awareness of potential systemic vulnerabilities

that can impact or be impacted by Ontario's capital markets

- Higher quality trade reports and measurable improvement in trade reporting completion statistics improves our ability to meet policy setting, systemic risk monitoring and enforcement assistance objectives
- Canadian regulatory framework keeps pace with global regulatory developments. Harmonized regulatory approaches (internationally and within the CSA) reduce regulatory burden on our market participants
- Monitoring regime for data relevant to the applicability of proposed margin rule for uncleared derivatives to Ontario entities established.

Timely and Impactful Enforcement Actions

The OSC will promote confidence in Ontario's capital markets by increasing the deterrent impact of OSC enforcement actions and sanctions by actively pursuing timely and consequential enforcement cases to address serious securities laws violations.

Actions will include:

- Ensuring investigative and litigation resources are focused on cases expected to have a strong regulatory impact and are aligned with our strategic priorities
- The Joint Serious Offences Team (JSOT), that works in cooperation with policing partners, will continue to focus on fraudulent behaviour and recidivism
- Identifying ongoing harmful misconduct and take timely, proactive disruptive action to stop the misconduct at the earliest stage and minimize investor harm
- The Whistleblower group will triage tips to focus action on impactful enforcement proceedings with effective regulatory messages.

Our aim is to achieve fair and just outcomes in response to misconduct and ensure compliance with securities laws.

Planned Outcomes

- Implementation of new tools supports increased use of data to support case selection and investigation decisions

- Enhanced profile for the OSC Whistleblower Program increases the number of credible tips
- Increased number of visible, effective disruption actions completed
- Increased visibility of priority case outcomes with strong regulatory messages aligned with OSC strategic priorities.
- Improved use of data analytics in market conduct cases to strengthen the detection of harmful conduct.

Enhance Economically Focused Rule-Making

The Five-Point Plan included economically-focused rule-making, noting that rule-making must weigh the economic costs against benefits to stakeholders.

Actions will include:

- Ensure proposed rules are supported by publicly available qualitative and quantitative analysis of the anticipated costs and benefits.

Planned Outcomes

- Improved transparency and understanding of the expected impacts of proposed rules.

Support Transition to the Cooperative Capital Markets Regulatory System

The OSC will be committing resources to support implementation of the CCMR as a streamlined capital markets regulatory system will make our capital markets more efficient and competitive relative to other countries, facilitate more effective monitoring and responses to systemic risk on a national basis and provide investors timely and uniform protections across jurisdictions.

The proposed transition to CCMR will require the OSC to re-prioritize, mobilize resources and adopt change management activities once workstreams are activated to prepare for the CCMR launch. The OSC will need to participate with other CCMR partners to complete work to develop effective legislation, regulations and efficient regulatory oversight processes.

Planned Outcomes

- OSC is ready and able to seamlessly transition to the proposed CCMR.

OUR GOALS

Reduce Regulatory Burden

The Ontario government is promoting a stronger environment for Ontario business and investors by cutting red tape and reducing regulatory burden. The government plans to systematically review Ontario's stock of regulations, then streamline, modernize and, in some cases, eliminate unnecessarily complicated, outdated or duplicative regulations. The OSC will support this goal by assessing policies and processes to streamline regulatory requirements and processes to make it easier to participate in Ontario's capital markets.

OUR KEY PRIORITIES

Engage with Stakeholders on Burden Reduction Opportunities

Regulatory Burden Task Force

In November 2018, the OSC announced the creation of a Regulatory Burden Task Force. The Task Force will develop a strategy to implement regulatory burden reduction in policy development and operational activities, identify areas that would benefit from a reduction of any undue regulatory burden and develop proposals to streamline those requirements without reducing investor protection or efficiency of the markets. The Task Force was also highlighted in the Ontario government's 2019 budget as part of the government's Five-Point Plan for creating confidence in Ontario's capital markets and fostering economic growth through burden reduction.

The Task Force has taken the following key actions:

- (a) Stakeholder consultation – On January 14, 2019, the OSC published OSC Staff Notice 11-784: *Burden Reduction*, which outlined the Task Force's plans to broadly consult Ontario market participants on ways to further reduce regulatory burden and improve the investor experience. Stakeholder engagement, particularly with those most impacted by

regulatory burden, is essential to the success of this initiative. Since launching the Task Force, the OSC has encouraged input from investors, market participants, SROs, government and staff, resulting in more than 70 comments and suggestions, as well as the participation of more than 400 people at the first of three public roundtables on the subject. This input will inform the Task Force's priorities and activities. Key themes and common suggestions from the feedback include:

- Invest in technology systems to improve functionality, reliability and use of data
- Improve harmonization with CSA, SROs and other jurisdictions
- More rigorous regulatory impact analysis and evidence-based policy-making
- Improve transparency of decision making, service standards and interactions with staff
- Improve exemptive relief process including the use of blanket orders
- Streamline and simplify duplicative information in various requirements
- Simplify and expedite registration within CSA and between CSA and IIROC
- Review and revisit fees and deadlines around specific filings.

- (b) Identification of burden reduction initiatives – The Task Force has identified potential burden reduction initiatives through stakeholder consultation and internal staff engagement. The Task Force is developing quantitative and qualitative criteria to measure the impact of burden reduction initiatives and will work with the Ministry of Finance to select and prioritize the most impactful initiatives, including those that may be of particular benefit to small and medium sized businesses. Where initiatives potentially require changes to harmonized national rules, the OSC will work with the CSA.

The Task Force will continue to gather and assess feedback from all stakeholders through online comment forms, internal engagement efforts, stakeholder outreach, consultation papers and additional roundtables. These collaborative discussions will allow market participants and investor representatives the opportunity to provide real time feedback on the OSC's approach to reducing regulatory burden. These sessions are attended by a broad cross-section of industry participants and other stakeholders and provide very useful insights, including the differences in issues and opportunities faced by larger participants versus small and medium-sized businesses.

Regulatory Burden Initiatives

The following initiatives are planned or underway by the OSC with the CSA:

- Develop a CSA agreed interpretation of what would trigger primary business financial statement requirements in an IPO
- Propose amendments to streamline, eliminate duplication among, and potentially consolidate into one report (both annual and interim), the financial statements, MD&A and, where applicable, AIF
- Consider modifications to the Business Acquisition Report (BAR) requirements
- Codify exemptive relief routinely granted to facilitate at-the-market offerings and consider whether other changes to liberalize the current approach are appropriate
- Identify opportunities to enhance electronic delivery of documents
- Seek to harmonize the prospectus and registration exemptions for securities-based crowdfunding by adopting a start-up crowdfunding exemption as a national instrument
- Research and identify an alternative and streamlined offering regime for reporting issuers.
- The Task Force to publish a report in Fall 2019, setting out short, medium and longer term initiatives and action plans to implement them
- Implement the plan set out in the CSA Staff Notice 81-329 *Reducing Regulatory Burden for Investment Fund Issuers*

- Review NI 33-109 *Registration Information* (including considering relevant stakeholder comments from the Burden Reduction Task Force) to identify options to modernize its requirements. Any amendments to the rule will require a CSA initiative.

Regulatory Impact Analyses

The OSC will continue to enhance the regulatory impact analyses it conducts for policy initiatives with a view to improving stakeholder engagement and increasing transparency. The OSC will also conduct more post implementation reviews to confirm achievement of identified expected benefits and that no major impacts were missed from the initial analysis.

Planned Outcomes

- Streamlined regulatory requirements and processes save participants in Ontario's capital markets time and money
- Proposed solutions are tailored to address the different characteristics and needs of businesses of various sizes
- Timely alignment with international regulatory changes results in reduced reporting burden for market participants
- Investor protection is maintained or strengthened
- Proposed policy initiatives are informed by impact analysis
- Improved efficiency and effectiveness of operations results in cost savings and improved resource usage.

Initiate OSC Website Redevelopment

The Commission is faced with an aging communications systems infrastructure. Updates to systems and processes are needed to realize efficiencies, comply with accessibility standards, and adapt to increasing volumes. The OSC will undertake a redevelopment of the OSC website to overhaul service delivery to market participants. The redevelopment will improve stakeholder communications by streamlining content, dramatically enhancing search capability, improving usability and efficiency, and meeting accessibility standards in line with the Accessibility for Ontarians with Disabilities Act web content accessibility guidelines.

Actions will include:

- Complete discovery for content revision and website redevelopment, including a user engagement survey
- Develop and begin implementation of a content revision plan
- Develop a technical strategic plan for design and build of the new website.

Planned Outcomes

- Identify content to be revised and removed, with an aim to decrease the size of the OSC website by 50%
- Engage vendors in content revision and website redevelopment.

OUR GOALS

Facilitate Financial Innovation

Rapid changes in financial technology have impacted regulators and the sale/distribution of financial products. Regulators are expected to create an environment that supports emerging financial technology, ensuring investor protection, while creating flexible and proportionate regulatory approaches.

The OSC will continue to develop flexible regulatory approaches to help support fintech innovation in Ontario. This includes creating flexible regulatory frameworks for crypto-asset business models, including initial coin and token offerings; crypto-asset investment funds; corporate finance issuers investing in crypto-assets, digital tokens and/or distributed ledger technology-related businesses; and crypto-asset trading platforms.

OUR KEY PRIORITIES

Engage with the Fintech/Start-Up Sector

Assist Fintech businesses to understand and meet regulatory requirements to accelerate time-to-market and improve attractiveness of Ontario capital markets.

Actions will include:

- Identify issues and opportunities and integrate learnings gained by working with innovative businesses to modernize regulation, reduce burden, improve regulatory alignment and better support emerging businesses
- Publish a CSA/IIROC consultation paper on the regulatory framework for crypto-asset trading platforms
- Examine the role of the unit creation and redemption process in the secondary market trading of ETFs units. Assess disclosure of the unit creation and redemption process.
- Incorporate regulatory developments in global ETF markets as input in developing a tailored Canadian regulatory approach.

Planned Outcomes

- OSC LaunchPad and the CSA Regulatory Sandbox support development of novel business models, facilitate more timely registration and exemptive relief processes for emerging firms and support fintech businesses to operate in Ontario and other Canadian jurisdictions
- Greater use of creative regulatory approaches (e.g. limited registration and other exemptive relief) provides an environment for innovators to test their products, services and applications
- Time-to-market of novel fintech businesses is reduced while maintaining appropriate investor safeguards
- Capital formation and innovation supported through OSC LaunchPad as Ontario is viewed as a fintech innovation hub with a positive and supportive environment for investment
- Timely updates on the OSC LaunchPad website reflect any fintech-related notices, news releases or guidance
- Enhanced disclosure relating to the ETF unit creation and redemption process, as relevant for investors and other market participants.

Establish the Office of Economic Growth and Innovation

Under the Five-Point Plan the OSC will create an Office of Economic Growth and Innovation. This office is intended to foster fair and efficient capital markets and support innovation in capital markets, which would lead to economic growth. The office will work with market participants to ensure that the OSC receives balanced insights into the perspectives of stakeholders and prioritizes the update of existing rules to reduce regulatory burden.

Actions will include:

- Create and launch an Office of Economic Growth and Innovation

- Collaborate with businesses and other regulators to gain insights on how to support innovation, facilitate competition and reduce regulatory burden.

Planned Outcomes

- Increased capital formation within the province
- Accelerated innovation in financial services through proliferation of technology, reduced costs and increased competition
- Impacts of regulatory actions are assessed in the context of small or medium-sized market participants
- Office of Economic Growth and Innovation is fully operational and delivering on its mandate.

Implement Alternative Funds Regime

Expand investment choices for Ontario investors by supporting and facilitating industry stakeholders to develop and launch funds with alternative strategies and innovative structured investment products (e.g. foreign structured notes, ADR-type products) and enable portfolio managers to manage fund assets with more flexibility and efficiency.

Planned Outcomes

- Reduction in routine alternative fund related exemptive relief requests
- Increased numbers and types of new alternative funds and structured products improves investor choice.

OUR GOALS

Strengthen Our Organizational Foundation

The OSC regulates and supports an ever-changing and highly competitive financial sector. The OSC faces challenges to regulate behaviour in a rapidly changing and technology-driven environment. To meet these challenges and regulate in a manner that is both sound and efficient requires a strong organizational foundation of people, systems and data management and analytics.

The OSC needs to enhance its workforce by seeking staff with strong data-gathering, intelligence, and analytic capabilities who can proactively identify emerging problems, especially when those problems do not fit established patterns. The OSC faces significant challenges to attract and retain staff with these skills as it operates in a competitive market where demand for people is high.

The OSC needs robust systems to manage high volumes of data and support advanced data analytical techniques to uncover patterns and detect non-compliance. Well organized data combined with the right regulatory approach, can help the OSC prevent and detect non-compliance, define where future resources should be focused and ultimately shape future regulatory strategy. Successfully addressing these challenges will position the OSC to provide efficient and effective regulation that delivers better outcomes.

OUR KEY PRIORITIES

Implement Strategic Workforce Planning

The OSC will conclude the Strategic Workforce Planning (SWP) Project Pilots.

Actions will include:

- Measure the outcomes against success criteria
- Make recommendations to be incorporated into a broader SWP Framework
- In the framework, integrate multiple sources of

workforce, employee, position and financial information to enable improved planning and decision making to support OSC operations.

Planned Outcomes

- Strategic workforce planning is integrated into OSC business operations
- Employment relationships are aligned with organizational and employee needs
- Lower turnover of staff with sought-after skillsets, time to staff critical roles is reduced
- Staffing tactics and work structures reflect evolving approaches to policy and file work that draws upon multiple skills and expertise.

Continue National Systems Renewal Program (NSRP)

Redevelopment of the CSA national systems is a critical foundation for the OSC to become a more data analytic focused and evidence-based regulator.

Actions will include:

- Support the CSA initiative to replace the CSA national systems with a modern, accessible, integrated, searchable, secure, robust database and system to deliver capabilities that support existing regulatory requirements and can be easily modified to support the future needs of market participants and regulators
- Amend the systems rule, plus a new CSA Systems Fee Rule
- Complete work on OSC local systems and related processes, workflows and policies to ensure they are aligned with the NSRP national systems when they are launched.

Planned Outcomes

- Successful launch of the NSRP system that meets the needs of the users and is aligned with the OSC local systems

- Improved operational functions and more efficient service delivery to market participants.

Implement First Phase of Market Analysis Platform (MAP)

MAP implementation creates enhanced internal analytical capacity to better conduct insider trading and market manipulation investigations and focused policy research. Access to improved analytical resources reduces investigation timelines and creates capacity to complete more cases.

Actions will include:

- Complete Phase I implementation of MAP.

Planned Outcomes

- Automation of multiple data management processes, thereby increasing data quality accuracy and reliability
- Increased ability to detect market misconduct
- Increased efficiency in terms of quality, reliance and usage of automated reports and queries
- Ability to store a wider breadth and depth of trade related data on a timelier and more standardized basis.

Modernize OSC Technology Platform

The OSC has planned several strategic initiatives to modernize its technology platforms and safeguard information to support new approaches to its regulatory work and improve efficiency in delivering regulatory outcomes.

Data Management Program

The OSC will continue to pursue its Data Management Program (DMP) with integrated NSRP local system requirements. As part of the program, new business systems will be developed that support new approaches to regulatory work and improve efficiency in delivering regulatory outcomes.

Actions will include:

- A new centralized review and case management system for improved regulatory business work-flow management
- A right-sized framework for on-going data governance

- A data management technology stack that includes tools for improved data management and analytics.

Systems Modernization & IT Resilience

Significant IT modernization investments on infrastructure services and enterprise software are planned.

Actions will include:

- New OSC Compliance System
- Enforcement E-Discovery System replacement
- Additional data management and analytics tools
- On-going platform currency upgrades and improvements to various internal operational systems.

Information Security Program

The OSC will continue to implement an Information Security Program that is aligned with the National Institute of Standards and Technology cybersecurity framework.

Actions will include:

- Improve information security governance
- Improve on-going information security operations and remediation of information security risks
- Implement additional information security tools and technology
- Develop additional policy, procedures and controls
- Continue on-going information security awareness training for all staff.

Planned Outcomes

- Successful implementation of the OSC Data Management Program enables improved management, usage and quality of OSC data
- Implementation of additional tools and technologies facilitates improved data management and analytics
- On-going platform currency and upgrade activities completed as required
- Successful implementation of the Information Security Program results in secure operations of OSC systems and more reliable OSC system up-time.

Build a Data Driven, Evidence Based, Risk Focused Organization

Implementation of a data-driven, evidence-based, risk focused organization will require a clearly defined data strategy, policies and procedures, standards, skilled resources and a shift in culture; as well as visible and active senior management support. The OSC will build its capability to be a data driven, evidence based, risk focused organization.

Actions will include:

- Establish and launch an Enterprise Data Management Office to support a data-driven, evidence-based and risk-focused organization
- Develop and implement a fit-for-purpose data governance framework and approach to data management to enhance the collection, management and analysis of data
- Promote use of enhanced data management and analytics at the OSC to support and inform OSC policy and operations
- Further develop staff expertise to assemble and analyze relevant, reliable, comparable and timely data in a systematic manner.

Planned Outcomes

- Integrated vision, strategy and governance of OSC data management initiatives
- Consistent cross-Commission compliance with data policies, standards and procedures
- Improved data management processes and more focused data collection

- Improved staff efficiency through timely access to accurate, complete and quality data that supports business needs
- Demonstrated use of data in support of priority setting and policy and operational decision-making

Ensure Competitiveness and Clear Service Standards

The Ontario Government and the OSC are committed to making Ontario's capital markets globally competitive. The OSC will continue to strive to achieve a global standard of excellence in securities regulation.

Actions will include:

- Report on metrics that track the competitiveness of Ontario's capital markets relative to other jurisdictions
- Service standards will be tracked relative to securities regulators in leading jurisdictions
- Create clarity for market participants on the processes for interacting with the OSC
- Review and update OSC Customer Service Standards.

Planned Outcomes

- Improved understanding of relative competitiveness of Ontario capital markets
- Better service and trend analysis.

BUDGET

Financial Outlook

The OSC is proposing a balanced budget net of recoveries and exclusion of \$1.7 million interest charge under IFRS16. The total budgeted revenue of \$126.8 million is \$2.5 million below actuals but is an increase of \$6.8 million over the prior year's budget. Chargeable filing volumes are expected to decline as a result of the regulatory burden initiative. As plans crystalize, the impact to revenues will be determined. Overall operating expenses are expected to increase \$7.7 million from actuals primarily driven by incremental

salaries and benefits costing \$2.3 million and IT maintenance of \$2.0 million. The remaining variance is due to an increase in Professional Services expense from delayed projects.

Capital spending on projects is expected to increase \$1.6 million from the forecast for new and on-going projects. A non-cash right of use asset for \$56.7 million is to be recorded for financing lease arrangements under IFRS16.

\$000's	2018-2019 Budget	2018-2019 Actual	2019-2020 Proposed Budget	Proposed Budget to 2018-19 Budget		Proposed Budget to 2018-19 Actual	
				\$	%	\$	%
				<i>Favourable / (Unfavourable)</i>			
Revenues	119,990	129,353	126,839	6,849	6%	(2,514)	(2%)
Operating Expenses	129,446	121,787	129,443	3	0%	(7,656)	(6%)
Finance costs (IFRS 16)	-	-	1,729	(1,729)	(100%)	(1,729)	(100%)
Recoveries of insurance proceeds, enforcement and investor education costs	(2,530)	(4,163)	(2,587)	57	2%	(1,576)	(38%)
Expenses (Net of Recoveries and Finance Costs)	126,916	117,624	128,585	(1,669)	(1%)	(10,961)	(9%)
Operating Surplus/(Deficit)	(6,926)	11,729	(1,746)	5,180	75%	(13,475)	(115%)
Capital Additions	9,948	5,657	7,244	2,704	27%	(1,587)	(28%)

1.1.2 CSA Staff Notice 31-354 Suggested Practices for Engaging with Older or Vulnerable Clients



CSA Staff Notice 31-354 Suggested Practices for Engaging with Older or Vulnerable Clients

June 21, 2019

Introduction

The Canadian Securities Administrators (**CSA** or **we**) have prepared this staff notice (**Notice**) in response to concerns raised by registered firms and their registered individuals (collectively, **registrants**) regarding how to address the changing needs and issues they may encounter when working with older or vulnerable clients, including responding to potential financial exploitation and diminished mental capacity.

Canadians are living longer than ever before, and older Canadians are increasingly making up a greater proportion of the total population.¹ As investors live longer, there is a greater need for targeted financial advice and strategies associated with aging,² as well as the need to be more attuned to the sometimes-subtle changes clients may present as they age.

The CSA recognizes that older clients are not a homogenous group and that not all older clients are vulnerable or unable to protect their own interests. Vulnerability can affect a client of any age, take many forms, and can be temporary, sporadic or permanent in nature. Vulnerability can be caused by a number of factors, including a physical, cognitive or psychological limitation, or an illness or injury. While certain parts of this Notice are more focused on the needs and risks that may become relevant to individuals as they age, the suggestions provided in this Notice can similarly be applied to registrants' dealings with vulnerable clients.

We encourage registrants to be mindful of, and adapt their practices to reflect, the diverse circumstances and needs of their clients, especially those who are older or vulnerable. This Notice provides suggested practices on matters that registrants may consider when engaging with older or vulnerable clients, including:

- Red flags of diminished mental capacity
- Red flags of financial exploitation
- Know your client and suitability obligations
- Complaint handling
- Supervisory procedures
- Powers of attorney and limited trading authorizations
- Training employees on identifying potential financial exploitation and diminished mental capacity
- Identifying trusted contact persons
- Establishing written policies and procedures for reporting and escalating issues
- Communicating with older or vulnerable clients

This Notice complements the self-regulatory organizations' senior-focused guidance and resources, including the Investment Industry Regulatory Organization of Canada's (**IIROC**) Notice 16-0114 *Guidance on compliance and supervisory issues when dealing with senior clients* and the Mutual Fund Dealers Association of Canada's (**MFDA**) seniors webpage.³

¹ Recent Canadian census data shows that approximately 5.9 million Canadians are aged 65 or older, representing nearly 17 per cent of Canada's total population. Source: Statistics Canada, "Canada's population estimates: age and sex" (2015).

² Households led by Canadians aged 65 and older control approximately \$541 billion in non-pension financial assets, representing 39 per cent of total non-pension financial assets held by Canadian households. Source: Statistics Canada, Survey of Financial Security (2016).

³ <http://mfda.ca/investors/for-seniors/>

In developing this Notice, CSA staff considered the following:

- (1) consultations with stakeholders and experts, as well as other research conducted as part of the development of the Ontario Securities Commission (**OSC**) Seniors Strategy,⁴
- (2) the OSC's Senior Suitability Review,⁵
- (3) consultation with the OSC's Seniors Expert Advisory Committee,⁶
- (4) initiatives undertaken in Québec in the 2017-2022 Governmental Action Plan to Counter Elder Abuse, and more specifically guidance published by the Autorité des marchés financiers in May 2019: *Protecting vulnerable clients – A practical guide for the financial services industry*, and
- (5) review of learnings and practices of regulators outside Canada and organizations focused on meeting the needs of older or vulnerable adults.

We encourage registered firms to consider developing and improving their written policies and procedures⁷ based on the suggested practices set out in this Notice. We note that the suggestions in this Notice are not intended to be exhaustive. Registered firms may develop additional policies and procedures, that may be relevant to their business model, as well as the characteristics of their older and vulnerable clients.

Diminished Mental Capacity: Red Flags

The likelihood that a registrant will encounter clients who suffer from diminished mental capacity has increased with the rising demographic of older individuals. As the human body ages, it is normal for changes in the brain to take place. These changes may not have a noticeable effect on one's ability to perform routine financial tasks, such as paying bills, but can become more obvious when one faces more complex or unfamiliar financial decisions, such as deciding to buy or sell investments. While issues of diminished mental capacity are often associated with aging, we recognize that these factors may affect different individuals at different points in their lives, and to significantly different degrees.

Registrants can be among the first to notice signs of diminished mental capacity. These signs may arise subtly and over time. Examples of warning signs include, but are not limited to:^{8, 9}

- memory loss, such as forgetting previously given instructions or repeating questions,
- increased difficulty completing forms or reviewing disclosure documents,
- increased difficulty understanding important aspects of investment accounts,
- confusion or unfamiliarity with basic financial terms and concepts,
- reduced ability to solve everyday math problems,
- exhibiting unfamiliarity with surroundings or social settings or missing appointments,
- problems with language,

⁴ OSC Staff Notice 11-779 *Seniors Strategy*.

⁵ In 2017, Compliance and Registrant Regulation Branch staff of the OSC conducted a review of 30 Portfolio Managers and Exempt Market Dealers who provided investment advisory services or sold products to a significant portion of clients who were over 60 years old. Please refer to OSC Staff Notice 33-749 *2018 Annual Summary Report for Dealers, Advisers and Investment Fund Managers* for a summary of the Senior Suitability Review findings.

⁶ The OSC's Senior Expert Advisory Committee provides OSC staff with expert opinions and input on securities-related policy, operational, education and outreach activities that are designed to meet the needs of older investors. The Committee is composed of experts in financial services, medical sciences, law, seniors' advocacy and other fields.

⁷ One of the key findings in the OSC Senior Suitability Review indicated that approximately 90% of the firms reviewed did not have any written policies and procedures for dealing with seniors and vulnerable investors, or on how to identify and address issues such as potential financial abuse, diminished mental capacity and misuse of a power of attorney.

⁸ Alzheimer's Society of Canada. 2014. *Alzheimer's disease: 10 warning signs*. Toronto.
http://www.alzheimer.ca/sites/default/files/files/national/core-lit-brochures/10_warning_signs_e.pdf

⁹ Investment Funds Institute of Canada. 2018. *Advisor Insights: Meeting the Needs of Investors with Cognitive Decline*. Advisor Insights: June 2018. <https://www.ific.ca/wp-content/uploads/2018/06/Advisor-Insights-Meeting-the-Needs-of-Investors-with-Cognitive-Decline.pdf>19868/

- changes in personality,
- increased passivity, anxiety, aggression or other changes in mood, or an uncharacteristically unkempt appearance.

Financial Exploitation: Red Flags

Research suggests that older Canadians are at a heightened risk of financial exploitation. Canadians aged 65 or older are the most likely age group to report being the victims of financial fraud,¹⁰ and financial abuse is the second most common form of elder abuse in Canada.¹¹ Financial abuse often involves family, friends, caregivers or holders of a power of attorney (**POA**) taking, misusing or underusing assets intended for the older or vulnerable person's care or household expenses.

Similar to signs of diminished mental capacity, registrants can be among the first to notice signs of potential financial exploitation. Warning signs that a client could be subject to financial exploitation include, but are not limited to:^{12, 13}

- sudden change of risk profile from low risk/capital preservation to high risk,
- sudden reluctance to discuss financial matters,
- unexplained or sudden withdrawals from accounts or account closures,
- being accompanied to meetings by new or unknown caregivers, friends or family members or having difficulty communicating directly with the client without the interaction of others,
- sudden or unusual requests to change ownership of assets (for example, requesting that investments be transferred to a joint account held by family members, friends or caregivers),
- sudden or unexplained changes to legal or financial documents, such as POAs and wills, or account beneficiaries,
- unusual anxiety when meeting with or speaking to a firm employee (in-person or over the phone),
- unusual difficulty with, or lack of response, to communications or meeting requests,
- limited knowledge about their financial status,
- increasing isolation from family or friends, or
- signs of physical neglect or abuse.

Know Your Client

Under section 13.2 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), registrants have an obligation to take reasonable steps to collect information regarding a client's investment needs and objectives, financial circumstances, risk tolerance and other information to ensure that an investment is suitable for a client (referred to as the "know your client" or "KYC" requirement).

To better understand a client's needs and objectives as they age, as part of the KYC process, we encourage registrants to consider requesting and documenting information, such as:

- current employment status and intended retirement date, if not yet retired,
- potential expenses while in retirement (for example, travel plans, property purchases, medical needs and assisted living expenses),

¹⁰ Innovative Research Group (commissioned by the CSA), CSA Investor Index (2017), at p. 52.

¹¹ National Initiative for the Care of the Elderly, *Into the Light: National Survey on the Mistreatment of Older Canadians* (2015), at p. 55.

¹² North American Securities Administrators Association. 2016. *A Guide for Developing Practices and Procedures for Protecting Senior Investors and Vulnerable Adults from Financial Exploitation*. Washington. <http://serveourseniors.org/wp-content/uploads/2016/09/NASAA-Guide-For-Developing-Practices-and-Procedures-For-Protecting-Senior-Investors-and-Vulnerable-Adults-From-Financial-Exploitation.pdf>

¹³ Investment Funds Institute of Canada. 2018. *Advisor Insights: Protecting Investors from Financial Exploitation*. Advisor Insights: June 2018. <https://www.ific.ca/wp-content/uploads/2018/06/Advisor-Insights-Protecting-Investors-from-Financial-Exploitation.pdf/19872/>

- liquidity needs, such as a breakdown of current expenses, short- and intermediate-term expenses, and whether investments are generating enough income to meet the client's fixed and potential expenses,
- estate planning objectives, including family giving and charitable donations, if any,
- trusted contact person information, and
- any current wills or POAs of which the registrant should be aware.

Registrants are also required to take reasonable steps to keep their clients' KYC information current.¹⁴ Registrants are encouraged to meet with their older or vulnerable clients more frequently to update their KYC information. Updating the KYC information more frequently puts the registrant in a better position to keep informed of significant changes that may impact their clients' financial circumstances. Examples of such changes could include: diagnosis of a medical condition resulting in increased healthcare expenses, death or incapacity of a spouse that was the primary source of income or entering retirement with an associated loss of employment income.

Updating the KYC information more frequently also puts the registrant in a better position to notice changes that can assist in the identification of diminished mental capacity or financial exploitation. Registrants are encouraged to take note of changes they observe or become aware of regarding a client's:

- health status, whether physical, mental or emotional,
- ability to understand financial information and make financial decisions,
- decision-making style, and
- overall awareness of investing concepts.

Suitability Obligation

Under section 13.3 of NI 31-103, registrants have an obligation to take reasonable steps to ensure that a proposed trade is suitable for a client before making a recommendation or accepting instructions from a client.¹⁵ This obligation applies to all clients regardless of their age and circumstances.

We remind registrants that a client's net worth alone is not determinative of suitability. An investor's age and life stage, among other things, are important factors in assessing whether an investment is suitable.

In assessing suitability of investments for older or vulnerable clients, registrants are encouraged to carefully consider the potential impact of factors such as:

- products that have early withdrawal penalties or otherwise lack liquidity,
- products that have long holding periods,
- new, complex and non-conventional products,
- assuming too much risk, and
- concentration of a particular product(s) in a client's portfolio.

Complaint Handling

Under section 13.15 of NI 31-103, a registered firm must document and, in a manner that a reasonable investor would consider fair and effective, respond to each complaint made to the firm about any product or service offered by the firm or a representative of the firm.

We encourage registered firms to be mindful of any difficulties that their complaint handling procedures may pose for older or vulnerable clients. Such procedures may be daunting to these clients and justified complaints regarding the services provided by

¹⁴ s.13.2(4), NI 31-103.

¹⁵ Please refer to CSA Staff Notice 31-336 *Guidance for Portfolio Managers, Exempt Market Dealers and Other Registrants on the Know-Your-Client, Know-Your-Product and Suitability Obligations* for further guidance on how to comply with these obligations.

the firm may be deterred by the factors described in this Notice. These clients may be particularly susceptible to abandoning a justified complaint as a result of a prolonged and unduly complex process.

Supervision

Registered firms are encouraged to consider establishing heightened supervision of accounts and transactions for older or vulnerable clients, including:

- conducting more focused reviews of new account application forms and KYC updates for older or vulnerable clients,
- establishing age-based heightened review criteria for certain investments or product concentrations, and
- if the firm conducts spot checks, incorporating factors such as age and retirement status when selecting client trades or portfolios for review.

Establishing heightened supervision of accounts and transactions for older or vulnerable clients could be helpful in identifying unsuitable transactions or abusive practices involving these clients.

Powers of Attorney and Limited Trading Authorizations

Registered firms are encouraged to have written policies and procedures for identifying accounts of clients that:

- have a POA,
- have limited trading authorizations (**LTA**), and/or
- are under public guardianship or trustee services.

If the registered firm retains POAs on file, we suggest that the firm consider developing policies and procedures for ensuring that POAs are current and satisfy any applicable requirements under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, including those requirements relating to third-party determinations.

Registrants should consider the legislation that governs POAs in the jurisdiction where a client resides and the characteristics of the different types of POAs available in that jurisdiction, such as whether a POA endures after a finding of incapacity. The legislation, and the scope of the decisions that are authorized under a POA, can affect a registrant's ability to take instructions from that attorney.

When accepting instructions from a POA, the client's investment needs and objectives, financial circumstances, risk tolerance and other relevant information still need to be considered in determining whether investments are suitable for that client.

Registrants should also be mindful that POAs and LTAs may be abused and are encouraged to develop policies and procedures for addressing potential abuses as well as training employees of warning signs, which include:

- sudden or frequent changes to a client's POA followed by a change in account activity,
- multiple conflicting POAs, or
- large or unusual withdrawals being made by a person with a LTA or a POA.^{16, 17}

In cases of abuse of POAs and LTAs, it is useful to have the contact details of a trusted contact person for the registrant to contact. Suggested practices on the use of a trusted contact person are provided later in this Notice.

Training on Identifying Potential Diminished Mental Capacity or Financial Exploitation

Registered firms are encouraged to develop training programs for their employees on recognizing the potential warning signs that a client could be suffering from diminished mental capacity, how these changes can affect a client's financial decision-making abilities, and the implications that these changes may have for the client.

¹⁶ Elder Abuse Ontario. 2017. *Forms of Abuse: Financial Abuse*. Toronto. <http://www.elderabuseontario.com/what-is-elder-abuse/forms-of-abuse/#Financial>

¹⁷ National Initiative for the Care of the Elderly. 2016. *Preventing and Intervening in Situations of Financial Abuse: Ontario*. Toronto. <http://www.nicenet.ca/tools-preventing-and-intervening-in-situations-of-financial-abuse-ontario>

Registered firms are also encouraged to develop training programs to assist their employees in detecting and responding to potential financial exploitation of their older or vulnerable clients, including training to identify warning signs that a POA or LTA is being misused to exploit a client.

Identifying a Trusted Contact Person

Registrants may consider asking their clients to provide one or more trusted contacts who can be contacted if the registrant has concerns that the client may be suffering from diminished mental capacity or be subject to financial exploitation.

The trusted contact person (**TCP**) should be an adult (typically a family member, close friend or caregiver) who the client trusts with their personal information. Ideally, the TCP would not have an interest in the client's account or assets and would not be involved in making financial decisions with respect to the client's account (for example, a POA).

When collecting TCP information, we encourage registered firms to consider developing appropriate policies and procedures for:

- collecting and documenting TCP information and keeping this information up-to-date (for example, as part of the KYC process),
- obtaining the written consent of the client to contact the TCP, and any restrictions regarding under what circumstances the TCP can be contacted and what type of information can be shared, and
- documenting any discussions with a client's TCP.

We suggest that prior to contacting a client's TCP, the registrant be attentive to:

- communicating information to the TCP only in accordance with the client's consent, applicable privacy legislation and any confidentiality or non-disclosure agreements, and
- possible circumstances under which a TCP may be perpetrating abuse of the client.

We suggest that registrants encourage their clients to notify their TCPs that they have been identified as such and explain the circumstances under which they may be contacted.

Establishing Policies and Procedures for Reporting and Escalating Issues

Registered firms are encouraged to establish written policies and procedures for employees to follow in order to escalate concerns if they suspect a client is suffering from diminished mental capacity or if they suspect a client is being financially exploited. We suggest that these policies and procedures clearly establish lines of communication to ensure proper reporting.

It would be useful for these policies and procedures to include detailed warning signs of diminished mental capacity and financial exploitation that would trigger a registrant's escalation of a potential issue related to a client.

We also encourage registered firms to establish written policies and procedures to determine when and how suspected abuse of a POA should be escalated to the appropriate external authorities, for example, to the Office of the Public Guardian and Trustee (**PGT**),¹⁸ or to local law enforcement agencies pursuant to Section 331 of the *Criminal Code - Theft by person holding power of attorney*.

Registered firms may consider developing standardized forms to record potential or suspected financial exploitation, which may be used to collect information internally or share externally if making a report to a regulatory or law enforcement authority. This type of report may include:

- the client's name,
- relevant dates,
- a description of the events or observations that led to the report,
- a description of the steps the registrant has taken or plans to take in response to the event,

¹⁸ Note that the various provincial/territorial PGTs differ considerably in their authority and capacity to respond to concerns of financial exploitation. There are also differences in PGT mandates which could limit their ability to take action.

- a description of why the registrant believes the situation should be reported, and
- any relevant documentation related to the issue at hand to ensure that the internal stakeholders and any outside organization receiving the report have all the necessary information.¹⁹

We suggest that registered firms maintain up-to-date contact information of provincial support services and responders and that they make that information available to their employees.

Communicating with Older or Vulnerable Clients

Registrants are encouraged to review their methods of communication with older or vulnerable clients and be aware of issues relating to vision, hearing and mobility that may affect a client's needs when it comes to communicating with a registrant.

We encourage firms to give deference to the client to select their preferred method of communication (for example, in-person meetings or discussions via telephone) to facilitate their ability to participate in a meeting comfortably.

A registrant advising older or vulnerable clients may need to engage in discussions about changes in income, living arrangements, health care needs and physical and cognitive changes, as well as conversations regarding diminished mental capacity and the increased susceptibility to financial exploitation. Clients may feel uncomfortable discussing these issues or may become defensive when they are raised. Registered firms are encouraged to develop training programs and policies and procedures that provide their employees with the necessary tools to initiate these difficult conversations with clients.

We encourage firms to develop, organize and present written communications with the needs of older or vulnerable clients in mind. Several guides to drafting in plain language and designing accessible, inclusive communications have been produced by a variety of organizations, and we encourage registrants to make use of these resources in designing written and online communications.²⁰

Registrants are encouraged to document their conversations with older or vulnerable clients and provide written summaries or follow-up information after all discussions. This may help to assist clients that have difficulties with recalling information and may also help to prevent any misunderstandings.

Next Steps

The CSA is actively engaged in developing a flexible and responsive regulatory approach to address issues of financial exploitation and diminished mental capacity among older and vulnerable clients. The suggested practices outlined in the Notice are one measure taken by regulators to assist registrants in serving older or vulnerable clients.

Questions

Please refer your questions to any of the following:

<p>Lina Creta Senior Advisor, Policy, Investor Office Ontario Securities Commission 416-204-8963 lcreta@osc.gov.on.ca</p>	<p>Carlin Fung Senior Accountant Compliance and Registrant Regulation Ontario Securities Commission 416-593-8226 cfung@osc.gov.on.ca</p>
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¹⁹ North American Securities Administrators Association. 2016. *A Guide For Developing Practices and Procedures For Protecting Senior Investors and Vulnerable Adults From Financial Exploitation*. Washington. <http://serveourseniors.org/wp-content/uploads/2016/09/NASAA-Guide-For-Developing-Practices-and-Procedures-For-Protecting-Senior-Investors-and-Vulnerable-Adults-From-Financial-Exploitation.pdf>

²⁰ See e.g.: (i) Multiculturalism and Citizenship Canada. 1991. *Plain Language, Clear and Simple*. Ottawa; (ii) Royal National Institute for the Blind. 2006. *See it Right: Clear Print Guidelines*. London, U.K.; (iii) Public Health Agency of Canada. 2010. *Age-Friendly Communication: Facts, Tips and Ideas*. Online Catalogue no. HP25-11/2010E-PDF. Ottawa. <https://www.canada.ca/content/dam/phac-aspc/migration/phac-aspc/seniors-aines/alt-formats/pdf/publications/public/various-varies/afcomm-commavecaines/AFComm-Commavecaines-eng.pdf>; (iv) U.S. General Services Administration. 2011. *Federal Plain Language Guidelines*. Washington, D.C. <https://www.plainlanguage.gov/howto/guidelines/FederalPLGuidelines/FederalPLGuidelines.pdf>

<p>Paula White Deputy Director, Compliance and Oversight Manitoba Securities Commission 204-945-5195 paula.white@gov.mb.ca</p>	<p>Curtis Brezinski Compliance Auditor, Capital Markets Securities Division Financial and Consumer Affairs Authority of Saskatchewan 306-787-5876 curtis.brezinski@gov.sk.ca</p>
<p>Reid Hoglund Regulatory Analyst Alberta Securities Commission 403-297-2991 reid.hoglund@asc.ca</p>	<p>Craig Whalen Manager of Licensing, Registration and Compliance Office of the Superintendent of Securities Government of Newfoundland and Labrador 709-729-5661 cwhalen@gov.nl.ca</p>
<p>To-Linh Huynh Deputy Director, Operations Financial and Consumer Services Commission (New Brunswick) 506-643-7856 to-linh.huynh@fcnb.ca</p>	<p>Janice Leung Manager, Adviser/IFM Compliance British Columbia Securities Commission 604-899-6752 jleung@bcsc.bc.ca</p>
<p>Chris Pottie Deputy Director, Registration & Compliance Nova Scotia Securities Commission 902-424-5393 Chris.pottie@novascotia.ca</p>	<p>Éric Jacob Directeur principal de l'inspection Direction principale de l'inspection Autorité des marchés financiers 514.395.0337 ext. 4741 eric.jacob@lautorite.qc.ca</p>

1.1.3 Revised Approval 81-901 Mutual Fund Trusts: Approval of Trustees Under Clause 213(3)(b) of the Loan and Trust Corporations Act

**REVISED APPROVAL 81-901
MUTUAL FUND TRUSTS: APPROVAL OF TRUSTEES UNDER
CLAUSE 213(3)(b) OF THE LOAN AND TRUST CORPORATIONS ACT**

WHEREAS:

Clause 213(2)(b) of the *Loan and Trust Corporations Act* (the **LTCA**) provides that no body corporate, other than a registered trust company under the LTCA, shall act as a trustee in respect of any service it provides to the public. Clause 213(3)(b) of the LTCA provides that clause 213(2)(b) does not apply to a body corporate that manages a mutual fund trust and that is approved by the Commission to act as trustee of the mutual fund trust.

The term "mutual fund trust" is defined in the *Income Tax Act* (Canada) (the **ITA**), but not in the LTCA or the *Securities Act* (the **Act**). In this Approval, the term means a trust that is one or more of (i) a mutual fund, as defined in the Act, (ii) a mutual fund trust, as defined in the ITA, or (iii) a trust that expects to be in a position to elect to be deemed to have been a mutual fund trust, as defined in the ITA, from the date of its inception.

Approval 81-901 *Mutual Fund Trusts: Approval of Trustees Under Clause 213(3)(b) of the Loan and Trust Corporations Act* (the **1997 Approval**) was adopted on January 14, 1997. One of the requirements of the 1997 Approval (the **distribution requirement**) was that it only applied to mutual fund trusts the securities of which are distributed by means of a prospectus or a simplified prospectus for which a receipt has been issued by the Director under the Act.

The Commission has decided to replace the 1997 Approval, principally by removing the distribution requirement.

NOW THEREFORE,

- (a) The 1997 Approval is revoked; and
- (b) the Commission hereby grants approval to any body corporate that is an investment fund manager, as defined in the Act, to act as the trustee of any mutual fund trust in Ontario which it manages.

DATED: June 11, 2019

1.4 Notices from the Office of the Secretary

1.4.1 Issam El-Bouji

**FOR IMMEDIATE RELEASE
June 21, 2019**

ISSAM EL-BOUJI, File No. 2018-28

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

A copy of the Order dated June 21, 2019 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.4.2 BDO Canada LLP

**FOR IMMEDIATE RELEASE
June 21, 2019**

BDO CANADA LLP, File No. 2018-59

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on August 12, 2019 at 10:00 a.m. will be heard on August 19, 2019 at 10:00 a.m.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.4.3 First Global Data Ltd. et al.

FOR IMMEDIATE RELEASE
June 25, 2019

**FIRST GLOBAL DATA LTD.,
GLOBAL BIOENERGY RESOURCES INC.,
NAYEEM ALLI,
MAURICE AZIZ,
HARISH BAJAJ, AND
ANDRE ITWARU, File No. 2019-22**

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

A copy of the Order dated June 25, 2019 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 WestJet Airlines Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Multilateral Instrument 61-101 – Protection of Minority Security Holders in Special Transactions – exemption from the requirement to obtain separate minority approval for each class of affected common shares in connection with a proposed business combination transaction so that minority approval would be obtained from the affected classes of securities of the issuer voting together as a single class-issuer is subject to the Canada Transportation Act and its dual-class share structure has been established solely to ensure that it is compliant with the foreign voting control restrictions in such legislation – no difference of interest between holders of each class of common shares in connection with a proposed business combination transaction – requiring a class-by-class vote could give a de facto veto right to a non-Canadian group of securityholders.

Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, ss. 8.1(1), 9.1(2), 9.1(3).

Citation: Re WestJet Airlines Ltd., 2019 ABASC 101

June 19, 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
WESTJET AIRLINES LTD.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an

application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from the requirement that every class of affected securities vote as a separate class for the purpose of obtaining minority approval (the **Class Voting Requirement**) as set out in Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (**MI 61-101**) in connection with the Proposed Transaction (as defined below) and that instead minority approval of the Proposed Transaction be obtained from all of the outstanding Voting Shares (as defined below) voting together as single class (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 the 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 each of Québec, Manitoba and New Brunswick; 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*, MI 11-102 and MI 61-101 have the same meaning if used in this decision, unless otherwise defined. The following terms have the following meanings:

Canadian has the meaning specified in section 55(1) of the CTA.

CTA means the *Canada Transportation Act*.

CTA Amendments means the amendments to the CTA which came into force effective June 27, 2018 as a result of the *Transportation Modernization Act* (Canada).

Representations

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

1. The Filer is a corporation governed by the *Business Corporations Act* (Alberta) (the **ABCA**).
2. The Filer's head office is located in Calgary, Alberta.

3. The Filer is a reporting issuer in all of the provinces of Canada and is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.
4. The authorized share capital of the Filer consists of an unlimited number of common voting shares (**Common Voting Shares**); an unlimited number of variable voting shares (**Variable Voting Shares** and, together with the Common Voting Shares, the **Voting Shares**); an unlimited number of non-voting shares; and 56,750,000 preferred shares, issuable in series.
5. As of May 12, 2019, 113,954,380 Voting Shares were outstanding. There are no non-voting shares and no preferred shares outstanding. In addition, as of May 12, 2019, the Filer had 11,125,534 options (**Options**) outstanding, each entitling a Canadian holder to purchase one Common Voting Share and a non-Canadian holder to purchase one Variable Voting Share.
6. The Filer's transfer agent obtains a breakdown of the number of Common Voting Shares and Variable Voting Shares outstanding on a quarterly basis. As of March 31, 2019, the date of the most recent breakdown, the Voting Shares were comprised of approximately 69% Common Voting Shares and approximately 31% Variable Voting Shares.
7. As the owner of licensed air carriers, the Filer is subject to the requirements of the CTA. Section 61(1)(a) of the CTA includes a condition that an applicant for a domestic service operating licence be a Canadian. Prior to the CTA Amendments, Canadian was defined to include "a corporation or other entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 75%, or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned or controlled by Canadians".
8. The Common Voting Shares may only be held, beneficially owned and controlled, directly or indirectly, by Canadians. An outstanding Common Voting Share is converted into one Variable Voting Share, automatically and without any further act of the Filer or the holder, if such Common Voting Share becomes held, beneficially owned or controlled, directly or indirectly, otherwise than by way of security only, by a person who is not a Canadian.
9. The Variable Voting Shares may only be held, beneficially owned or controlled, directly or indirectly, by persons who are not Canadians. An outstanding Variable Voting Share is converted into one Common Voting Share, automatically and without any further act of the Filer or the holder, if such Variable Voting Share becomes held, beneficially owned and controlled, directly or indirectly, otherwise than by way of security only, by a Canadian.
10. Each Common Voting Share confers the right to one vote. Each Variable Voting Share confers the right to one vote unless: (i) the number of issued and outstanding Variable Voting Shares exceeds 25% of the total number of all issued and outstanding voting shares (or any higher percentage that the Governor in Council may by regulation specify), or (ii) the total number of votes cast by or on behalf of holders of Variable Voting Shares at any meeting exceeds 25% (or any higher percentage that the Governor in Council may by regulation specify) of the total number of votes that may be cast at such meeting. If either of the above noted thresholds is surpassed at any time, the vote attached to each Variable Voting Share will decrease automatically and without further act or formality to equal the maximum permitted vote per Variable Voting Share such that: (i) the Variable Voting Shares as a class do not carry more than 25% (or any higher percentage that the Governor in Council may by regulation specify) of the aggregate votes attached to all outstanding voting shares of the Filer and (ii) the total number of votes cast by or on behalf of holders of Variable Voting Shares at any meeting do not exceed 25% (or any higher percentage that the Governor in Council may by regulation specify) of the votes that may be cast at such meeting.
11. The sole purpose of the restrictions on the voting power of the Variable Voting Shares is to ensure that the Filer continues to be Canadian for the purposes of the CTA. These restrictions currently reflect the requirements of the CTA as they existed prior to the CTA Amendments. While the CTA Amendments have reduced the minimum level of Canadian control, the Filer has not amended its articles to adjust the voting rights of the Variable Voting Shares because it was not practicable to do so prior to the record date for the Special Meeting (as defined below).
12. The Variable Voting Shares and the Common Voting Shares trade under a common ticker symbol on the Toronto Stock Exchange (TSX).

The Proposed Transaction

13. On May 12, 2019, the Filer entered into an arrangement agreement (the **Arrangement Agreement**) with Kestrel Bidco Inc. (the **Purchaser**), an affiliate of Onex Corporation, pursuant to which the Purchaser will, subject to satisfaction or waiver of all of the conditions to such agreement, acquire all of the outstanding Voting Shares of the Filer (other than Voting Shares held by Management Participants (as

- defined below) and Voting Shares in respect of which dissent rights are validly exercised) in exchange for cash consideration equal to \$31.00 per share (the **Proposed Transaction**).
14. The Proposed Transaction is structured as an arrangement to be carried out in accordance with section 193 of the ABCA. The Arrangement Agreement requires that the Proposed Transaction be subject to the approval of 66 2/3% of votes cast by the holders of the outstanding Common Voting Shares, Variable Voting Shares and Options (collectively, the **Securityholders**) voting together as a single class in person or by proxy at a special meeting (the **Special Meeting**) to be held to consider the Proposed Transaction.
 15. As part of the Proposed Transaction, certain senior officers of the Filer (collectively, the **Management Participants**) will, prior to the effective date of the Proposed Transaction, enter into agreements pursuant to which such individuals will, among other things, exchange all or a portion of their Voting Shares and/or Options for shares or options, as applicable, of Kestrel Midco Inc., the parent company of the Purchaser.
 16. The Proposed Transaction will be a "business combination" as such term is defined in MI 61-101 and is therefore subject to the applicable requirements of MI 61-101. Such requirements include, among other things, approval of the Proposed Transaction by a majority of votes cast by the holders of Common Voting Shares and Variable Voting Shares (collectively, the **Shareholders**), in each case voting separately as a class, excluding the votes attached to applicable Voting Shares beneficially owned, or over which control or direction is exercised, by any party specified in subsection 8.1(2) of MI 61-101 (the **Disinterested Shareholders**) at the Special Meeting. The Disinterested Shareholders in respect of the Proposed Transaction include all of the holders of Voting Shares with the exception of the Management Participants.
 17. MI 61-101 was adopted to ensure the fair treatment of all security holders and the perception of such in the context of a business combination.
 18. The following procedural steps have been or will be taken to ensure that the collective interests of the Shareholders are protected in light of the Proposed Transaction:
 - (a) Negotiation of the Proposed Transaction was conducted by a special committee of the Filer's board of directors, which was comprised solely of directors who are independent of the Purchaser and its affiliates and the Management Participants.
 - (b) The board of directors of the Filer received opinions from CIBC Capital Markets and BofA Merrill Lynch (collectively, the **Financial Advisor Opinions**) to the effect that, as of May 12, 2019, the consideration to be received by Shareholders in the Proposed Transaction was fair, from a financial point of view, to such holders (in each case subject to the respective limitations, qualifications, assumptions and other matters set forth in such opinions).
 - (c) The Filer will prepare and deliver to the Securityholders an information circular (the **Information Circular**) prepared in accordance with applicable securities legislation and the interim order of the Alberta Court of Queen's Bench (the **Court**) in order to provide sufficient information to allow the Securityholders to make an informed decision in respect of the Proposed Transaction. The Financial Advisor Opinions will be included in the Information Circular.
 - (d) If the Proposed Transaction is approved by Securityholders at the Special Meeting, it will be subject to the final approval of the Court. All affected Securityholders will receive notice of and be entitled to appear at the hearing for the final Court order.
 - (e) The Filer will grant dissent rights to the registered Shareholders.
(collectively, the **Safeguard Measures**).
 19. The Filer's articles provide that holders of Voting Shares are entitled to vote at all meetings of shareholders of the Filer, except where the holders of a specified class of Voting Shares are entitled to vote separately as a class as provided in the ABCA.
 20. The ABCA does not require a separate class vote in respect of the Proposed Transaction, as holders of Common Voting Shares and Variable Voting Shares are entitled to receive the same consideration per share upon completion of the Proposed Transaction.
 21. Under the Filer's articles, the Variable Voting Shares and the Common Voting Shares are formally identified as separate classes in order to facilitate compliance with the Canadian ownership and control requirements of the CTA, however such shares have identical economic attributes and are listed and trade on the TSX as a single class of shares.

22. With regards to the accounting treatment of the Variable Voting Shares and the Common Voting Shares, there is no distinction between the two classes of shares. All Voting Shares are treated as common share capital and presented in the aggregate in shareholders' equity as share capital on the Filer's consolidated statement of financial position. For earnings per share purposes, the Voting Shares are presented together as outstanding shares and earnings per share is calculated based on the aggregate amount of outstanding Voting Shares.
23. To the knowledge of the Filer, there is no reason to believe that the holders of either class of Voting Shares would not approve the Proposed Transaction.
24. Granting the holders of the Variable Voting Shares a separate class vote on the Proposed Transaction would be inconsistent with the policy objectives of the CTA, which seek to ensure that Canadians retain control over licensed air carriers at all times. Absent the Exemption Sought, the Class Voting Requirement would provide the non-Canadian holders of Variable Voting Shares with the ability to prevent the Proposed Transaction. Such an outcome would deprive Canadians of de facto control over the Filer.

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 the Safeguard Measures are implemented and remain in place as described herein.

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

2.1.2 Royal Mutual Funds Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from the requirement in s. 3.2.01(1) of NI 81-101 to deliver a fund facts document to investors for subsequent purchases of mutual fund securities made pursuant to an automatic rebalancing program, subject to certain conditions – National Instrument 81-101 Mutual Fund Prospectus Disclosure.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 3.2.01(1) and 6.1.

June 19, 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
ROYAL MUTUAL FUNDS INC.
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for an exemption from the requirement in section 3.2.01(1) of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) to deliver or send the most recently filed fund facts document (the **Fund Facts**) in the manner required under the Legislation (the **Fund Facts Delivery Requirement**) in respect of purchases of securities of the funds (the **Funds**) that are, or will be, part of the target asset allocation program offered by the Filer (the **Program**) that are made pursuant to the Automatic Rebalancing Trades (as defined below) and Additional Investments (as defined below) (the **Exemption Sought**).

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

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

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

The Filer

1. The Filer is a corporation incorporated under the laws of Canada with its head office located in Toronto, Ontario.
2. The Filer is registered as a mutual fund dealer in each of the Canadian Jurisdictions and is a member of the Mutual Fund Dealers Association of Canada (the **MFDA**).
3. The Filer is a wholly owned subsidiary of Royal Bank of Canada.
4. The Filer is not in default of the securities legislation of the Canadian Jurisdictions.

The Funds

5. Each Fund is, or will be, an open-end mutual fund trust or an open-end mutual fund that is a class of shares of a mutual fund corporation.
6. Each Fund is, or will be, a reporting issuer in some or all of the Canadian Jurisdictions, and subject to National Instrument 81-102 *Investment Funds*.
7. Securities of the Funds are, or will be, qualified for distribution pursuant to a simplified prospectus, annual information form and Fund Facts that have been, or will be, prepared and filed in accordance with NI 81-101.
8. The Funds are not in default of the securities legislation of the Canadian Jurisdictions.
9. Securities of the Funds are, or will be, distributed through the Filer.
10. The Funds that will be initially included in the Program are managed by RBC Global Asset Management Inc. (**RBC GAM**), but Funds that are subsequently added to the Program may be managed by RBC GAM or other investment fund managers.

The Program

11. The Program involves the Filer rebalancing an investor's investments in certain selected Funds back to specific target allocations at prescribed time intervals and subject to prescribed variances, as further described below.
12. The Filer intends to launch the Program in September 2019.
13. A registered dealing representative of the Filer (an **Advisor**) collects "know your client" information (the **KYC Information**) from each client for each investment account, such as the client's financial circumstances, investment knowledge, investment objectives, time horizon and risk tolerance.
14. This data is then run through a proprietary technology tool (the **Tool**), which recommends a list of Funds and target allocations for the client, and gives the client the option to customize their own portfolio and target allocations using the list of Funds.
15. A client chooses a portfolio of Funds (the **Selected Funds**) with the Advisor using the Tool and determines the target percentage weightings of these Selected Funds (the **Target Fund Allocations**). The portfolios recommended by the Filer, through use of the Tool, are designed to occupy successive portions of the risk-return spectrum from conservative, income-maintenance investing to aggressive growth investing.
16. The Tool then generates the client's target percentage asset weightings (the **Target Asset Allocations**) based on the relative weightings of specified asset classes (the **Asset Classes**) within the Selected Funds. The client sets a permitted range for each Asset Class (the **Permitted Range**) in the form of a specific percentage deviation from the Target Asset Allocation.
17. The Tool periodically calculates the actual percentage weightings of each Asset Class within each client's account. If, when comparing the actual percentage weightings of each Asset Class to the Target Asset Allocation (based on Target Fund Allocations), the percentage weighting of any Asset Class deviates from the Permitted Range, the Tool will calculate the necessary purchase and redemption trades of the Selected Funds (the **Automatic Rebalancing Trades**) required to bring the client's account portfolio back to the original Target Fund Allocations.
18. The Automatic Rebalancing Trades will be executed by the Filer.
19. This monitoring, calculation and consequent auto-rebalancing, if necessary, occurs at pre-

- determined time intervals (for example, quarterly, semi-annually or annually), as determined by the client.
20. Before participating in the Program, the client will complete an enrollment form relating to the Program (the **Enrollment Form**) and sign a client account agreement with the Filer (the **Client Account Agreement**). After completing the Enrollment Form and reviewing the Client Account Agreement with an Advisor, the client authorizes the Filer to effect the Automatic Rebalancing Trades upon instructions from the Tool.
 21. Details of the Program will be disclosed in the Enrollment Form and Client Account Agreement.
 22. When enrolling in the Program, the client is made aware, prior to investing, that they are selecting a solution that automatically rebalances the Selected Funds by making purchases and/or redemptions of securities of the Selected Funds from time to time, pursuant to the Target Fund Allocations that they have selected.
 23. There are no fees or expenses charged in respect of the Program. The Filer and its dealing representatives will not receive any advisor fees from a client for participating in the Program.
 24. No sales charges, redemption fees, switch fees or short-term trading fees will be charged in connection with any trades effected under the Program.
 25. Clients may, from time to time, contribute additional funds to their accounts with the Filer for investment in Selected Funds through the Program. Such additional funds will be applied towards the purchase of additional securities of the Selected Funds in accordance with the Target Fund Allocations (the **Additional Investments**).
 26. In accordance with the Fund Facts Delivery Requirement, if not previously delivered, the client will receive the most recent version of the Fund Facts of the Selected Funds at the time that the client signs up for the Program and determines the Target Fund Allocations.
 27. A client may substitute any of the Selected Funds in their account with another Fund at any time by instructing their Advisor. If and when a Fund for which the client has not yet received the most recent version of the Fund Facts is chosen as a Selected Fund, the Filer will provide such client with the most recent version of the Fund Facts of that Selected Fund prior to including such Selected Fund in the client's account, in accordance with the Fund Facts Delivery Requirement.

28. A client may also choose to change the Target Fund Allocations (which consequently changes the Target Asset Allocations) at any time by instructing their Advisor. At no time will the Filer substitute any of the Selected Funds in a client's account or change the Target Fund Allocations without a client's consent.
29. Clients may terminate their participation in the Program at any time by instructing the Filer to discontinue participation in the Program.

Ongoing Monitoring and Oversight

30. The following monitoring and oversight procedures will be carried out in connection with the Program:
 - a. the Filer will send annual notifications to clients when the KYC Information related to their accounts in the Program have not been updated for greater than twelve months, and the notification will prompt such clients to engage an Advisor to:
 - i. inform the Advisor of any changes to the clients' circumstances; and
 - ii. review the Selected Funds within their accounts to ensure that the Selected Funds remain suitable; and
 - b. the Filer will conduct ongoing oversight of the portfolios and Funds that it recommends to clients through use of the Tool to determine whether the composition of the portfolios and Funds recommended through the Tool remain suitable for each risk profile or whether any changes to the selection of Funds would be appropriate.

Account Reporting

31. Upon the initial investment by the client in the Selected Funds under the Program and upon purchases of the Selected Funds made pursuant to Additional Investments, the client will receive trade confirmations as required under the applicable MFDA rule.
32. No trade confirmations are required to be sent to the client in respect of the Automatic Rebalancing Trades.
33. Clients will receive an email notification each time that an Automatic Rebalancing Trade occurs in their account. This notification will inform the client that their portfolio has drifted beyond the Permitted Range and that the Filer has completed Automatic Rebalancing Trades in order to bring

the balance of the Selected Funds back to the Target Fund Allocations. The notification will also invite the client to log in to their online account to review the details of the Automatic Rebalancing Trades and inform them that the details of such Automatic Rebalancing Trades will be reflected on their next quarterly account statement.

34. The Automatic Rebalancing Trades and any trades made pursuant to Additional Investments will also be reflected on the client's quarterly account statements.

The Exemption Sought

35. The Automatic Rebalancing Trades will result in redemptions and purchases of securities of one or more Selected Funds in a client's account. The Additional Investments will result in purchases of securities of one or more Selected Funds in a client's account. Each such purchase is a "distribution" under the Legislation, which triggers the Fund Facts Delivery Requirement.

36. The Fund Facts Delivery Requirement requires that a dealer, unless it has previously done so, deliver or send to a purchaser of a security of a fund the most recently filed Fund Facts for the fund before the dealer accepts an instruction from the purchaser for the purchase of the security.

37. Prior to the initial set-up of an account for an investor in the Program or prior to the purchase of a new Selected Fund, the Filer will send or deliver the Fund Facts document in respect of each applicable Selected Fund to the investor in accordance with the Fund Facts Delivery Requirement.

38. In the absence of the Exemption Sought, the Filer would be required to deliver the most recently filed Fund Facts in advance of purchases of securities of a Selected Fund that are made pursuant to each (a) Automatic Rebalancing Trade and (b) Additional Investment.

Selected Fund under the Program unless they specifically request them;

- b. that the investor is entitled to receive, upon request, at no cost to the investor, the most recently filed Fund Facts for the Selected Funds in the Program by calling a specified toll-free number, or by sending a request by mail or e-mail to a specified address or e-mail address;

- c. how to access the Fund Facts for the Selected Funds in the Program electronically;

- d. that the investor does not have a right of withdrawal under the Legislation for the Automatic Rebalancing Trades and Additional Investments under the Program, but will continue to have a right of action for misrepresentation in the prospectus or any document incorporated by reference into the prospectus; and

- e. that the investor may terminate their participation in the Program;

2. at least annually, each investor will be advised in writing of how they can request the most recently filed Fund Facts; and

3. the most recently filed Fund Facts will be sent or delivered to an investor if the investor requests it.

"Neeti Varma"
Manager
Investment Funds and Structured Products Branch
Ontario Securities Commission

Decision

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

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

1. each investor in the Program is sent or delivered a notice that states:
- a. except as contemplated in paragraphs 26 and 27 above, that the investor will not receive the Fund Facts when they subsequently purchase securities of a

2.1.3 Desjardins Investments Inc. and the Desjardins SocieTerra Global Bond Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from subsection 2.1(1) of National Instrument 81-102 – Investment Funds to permit a global fixed-income mutual fund to invest more than 10% of net asset value in securities issued by a foreign government or permitted supranational agency, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-102 – Investment Funds, ss. 2.1(1) and 19.1.

June 17, 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 DESJARDINS INVESTMENTS INC. (the “Filer”)

AND

THE DESJARDINS SOCIETERRA GLOBAL BOND FUND (the “Fund”)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (“**Decision Makers**”) has received an application from the Filer on the behalf of the Fund for a decision under the securities legislation of the Jurisdictions (the “**Legislation**”) for an exemption under section 19.1 of *Regulation 81-102 respecting Investment Funds*, RSQ, c. V-1.1, r. 39 (“**Regulation 81-102**”) from the concentration restriction in paragraph 2.1(1) of Regulation 81-102 (the “**Concentration Restriction**”) in order to permit the Fund to invest up to :

- a) 20% of its net asset value, immediately after the transaction, in evidences of indebtedness of any one issuer if those evidences of indebtedness are (i) issued, or guaranteed fully as to principal and

interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction of Canada or the government of the United States of America and (ii) rated “AA” by Standard & Poor’s Rating Services (Canada) (“**S&P**”) or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations; and

- b) 35% of its net asset value, immediately after the transaction, in evidences of indebtedness of any one issuer, if those evidences of indebtedness are (i) issued by issuers described in subparagraph (a) above and (ii) rated “AAA” by S&P or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations.

(such evidences of indebtedness are collectively referred to as “**Foreign Government Securities**”) (the “**Exemption Sought**”).

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

- a) the Autorité des marchés financiers is the principal regulator for this application,
- b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting passport System*, RSQ, c. 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 authority or regulator in Ontario.

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, RSQ, c. V-1.1, r. 3, *Regulation 25-101 respecting Designated Rating Organizations*, RSQ, c. V-1.1, r. 8.1, Regulation 11-102 and Regulation 81-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filer

1. The Filer is a corporation incorporated under the *Business Corporation Act*, RSQ, c. S-31.1 of Québec.

2. The Filer's head office is located in Montréal, Québec.
3. The Filer, or an affiliate of the Filer, will be the investment fund manager, promoter, registrar and transfer agent of the Fund.
4. The Filer is duly registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador.
5. The Filer is not in default of securities legislation in any of the jurisdictions of Canada.

The Fund

6. The Fund will be an open-ended investment fund trust to be established under the laws of Québec pursuant to an amended and restated declaration of trust dated May 6, 2019, as amended (the "**DoT**"). Desjardins Trust Inc. will act as trustee.
7. On May 8, 2019, the Fund filed a preliminary prospectus dated May 6, 2019 governed by National Instrument 81-101 *respecting Mutual Fund Prospectus Disclosure*, RSQ, c. V-1.1, r. 38 in each of the jurisdiction of Canada in order to proceed with an initial public offering. It is expected that the Fund will become a reporting issuer subject to both Regulation 81-102 and Regulation 81-107 – *Independent Review Committee for Investment Funds*, RSQ, c. V-1.1, r. 43 among others, in all jurisdictions of Canada upon the issuance of a receipt for its final simplified prospectus (the "**Simplified Prospectus**").
8. Desjardins Global Asset Management Inc. ("**DGAM**") will act as portfolio advisor to the Fund and will also be responsible for retaining portfolio sub-managers for the Fund.
9. DGAM is registered in the category of portfolio manager and exempt market dealer in Québec, Alberta, British-Columbia, Prince-Edward-Island, Manitoba, New-Brunswick, Nova Scotia, Ontario, Saskatchewan, Newfoundland and Labrador, Nunavut, Northwest Territories and Yukon. DGAM is also registered in the category of investment fund manager in Québec, Alberta, Manitoba, Nova Scotia, Ontario, and Newfoundland and Labrador. In addition, DGAM is registered as derivatives

portfolio manager in Québec pursuant to the *Derivatives Act*, RSQ, c.1-14.01, as an advisor in Manitoba pursuant to the *Commodity Futures Act*, C.C.S.M. c. C-152 ("**CFAM**"), and as a commodity trading manager in Ontario pursuant to the *Commodity Futures Act*, RSO, 1990, c. C.20 ("**CFAO**").

10. PIMCO Canada Corp. (the "**Sub-manager**") will act as portfolio sub-manager to the Fund. The Sub-manager is registered as portfolio manager and exempt market dealer in the provinces of Québec, Alberta, British-Columbia, Prince Edward Island, Manitoba, New Brunswick, Nova Scotia, Ontario, Saskatchewan and Newfoundland and Labrador. In addition, the Sub-manager is registered as investment fund manager in the provinces of Québec, Ontario and Newfoundland and Labrador. The Sub-manager is also registered as adviser in Manitoba pursuant to the CFAM and in Ontario as commodity trading manager pursuant to the CFAO.
11. DGAM is not in default of securities legislation in any jurisdiction of Canada.

Investment Objective of the Fund

12. The investment objective of the Fund will be to provide a high income return and some long-term capital appreciation by investing primarily in fixed-income securities of issuers throughout the world. The Fund follows an investing approach described in the section on "responsible investing" ("**RI**") in the first part of the Simplified Prospectus. RI means integrating the analysis of environmental, social and governance (ESG) factors into investment selection and management over a long-term horizon in order to finance companies that contribute to sustainable development.
13. The Fund invests primarily in global credit markets including, without limitation, investment-grade corporate bonds, high-yield corporate bonds and emerging market bonds.

Reasons for the Exemption Sought

14. The Concentration Restriction prohibits the Fund from purchasing a security of an issuer if, immediately after the transaction, more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction,

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| <p>would be invested in securities of any issuer.</p> <p>15. The Concentration Restriction does not apply to a purchase of, among other things, a “government security” which, under Regulation 81-102, means an evidence of indebtedness that is issued, or fully and unconditionally guaranteed as to principal and interest, by any of the government of Canada, the government of a jurisdiction of Canada or the government of the United States of America.</p> <p>16. Foreign Government Securities do not meet the definition of “government security”, as such term is defined in Regulation 81-102.</p> <p>17. The Filer submits that the Exemption Sought, which relaxes the limitations in the Concentration Restriction, will enhance the ability of the Fund to pursue and achieve its investment objective.</p> <p>18. The Filer submits that higher concentration limits may allow the Fund to benefit from investment efficiencies and reduced transaction costs as certain foreign government treasury offerings are more readily available for investment and trades can be completed faster in certain markets that are more readily accessible to foreign investment.</p> <p>19. The Filer submits that the credit risk and liquidity characteristics of the Foreign Government Securities are similar to the credit risk and liquidity characteristics of the types of securities that fall within the meaning of “government security” in Regulation 81-102, and that, consequently, a limited increase in the maximum percentage of the net asset value of the Fund that can be invested in the Foreign Government Securities will not result in a material increase in risks related to the Fund.</p> <p>20. The Sub-manager will employ fundamental credit analysis in selecting the Fund’s holdings with the flexibility to take advantage of relative value opportunities that exist in the global fixed income space. This flexibility extends across structures, sectors, currencies and countries. In following this style, in conjunction with fundamental investment analysis, the Filer submits that there may be periods where the portfolio managers believe that Foreign Government</p> | <p>Securities are better suited to the Fund’s investment objective.</p> <p>21. The Filer submits that by allowing the Fund to hold Foreign Government Securities, which would be rated AA or AAA by S&P or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations, the Fund would be able to preserve capital in foreign markets during adverse market conditions, to have access to assets with minimal credit risk and will enable the Sub-manager to assess its views on interest rates and duration.</p> <p>22. The Filer submits that the increased flexibility to hold Foreign Government Securities may also yield higher returns than Canadian shorter-term government fixed-income alternatives.</p> <p>23. The Filer submits that the ability to purchase Foreign Government Securities above the limit in paragraph 2.1(1.1) of Regulation 81-102, and in conformity with the Exemption Sought, will better enable the Fund to achieve its fundamental investment objective, thereby benefitting the Fund’s investors.</p> <p>24. The Fund will only purchase Foreign Government Securities if the purchase is consistent with the Fund’s fundamental investment objective.</p> <p>25. The Simplified Prospectus for the Fund will disclose the risks associated with concentration of net assets of the Fund in securities of a limited number of issuers.</p> <p>26. The Filer submits that the Exemption Sought is not contrary to the public interest, is in the best interest of the Fund and represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the Fund.</p> |
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- Decision**
- Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Makers to make the decision.
- The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:
- i. paragraphs a) and b) of the Exemption Sought cannot be combined for any one issuer;

- ii. the securities that are purchased pursuant to the Exemption Sought are traded on a mature and liquid market;
- iii. the acquisition of the evidences of indebtedness pursuant to the Exemption Sought is consistent with the fundamental investment objective of the Fund;
- iv. the Simplified Prospectus will disclose any additional risks associated with the concentration of net assets of the Fund in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the Fund has so invested and the risks, including foreign exchange risks, of investing in the country in which that issuer is located; and
- v. the Simplified Prospectus will disclose, in the investment strategies section, the details of the exemption granted along with the conditions imposed and the type of securities covered by the Exemption Sought.

"Hugo Lacroix"

2.1.4 Emerge Canada 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 from take-over bid requirements for normal course purchases of securities on the NEO-relief granted to facilitate the offering of exchange-traded mutual funds.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 59(1) and 147.

National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

June 19, 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
EMERGE CANADA INC.
(the Filer)**

AND

**IN THE MATTER OF
EMERGE ARK GLOBAL DISRUPTIVE INNOVATION
ETF,
EMERGE ARK GENOMICS & BIOTECH ETF,
EMERGE ARK FINTECH INNOVATION ETF,
EMERGE ARK AI & BIG DATA ETF,
EMERGE ARK AUTONOMOUS TECH & ROBOTICS ETF
(the Proposed ETFs)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Proposed ETFs and such other exchange-traded mutual funds as may be managed by the Filer in the future (the **Future ETFs**, and, together with the Proposed ETFs, the **ETFs** and each individually, an **ETF**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (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
- (c) exempts a person or company purchasing Listed Securities (as defined below) in the normal course through the facilities of the NEO Exchange (as defined below) 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 passport application):

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec, Saskatchewan and Yukon (together with Ontario, the **Jurisdictions**).

Interpretation

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

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 an ETF, a group of securities identified from time to time that collectively reflect the constituents of the portfolio of an ETF;

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 NEO Exchange 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 NI 41-101 and Form 41-101F2 that is listed on the NEO Exchange or another Marketplace;

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

NEO Exchange means Neo Exchange Inc.;

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

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to 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 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; and

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 is a corporation incorporated under the laws of the Province of Ontario, with its head office located at 130 King St. West, Exchange Tower, Suite 1804, Toronto, Ontario.
2. The Filer has submitted an application to be registered as an investment fund manager in Ontario, Newfoundland and Labrador and Québec, a portfolio manager in Ontario and an exempt market dealer in Ontario, Québec and Newfoundland and Labrador.
3. The Filer will be the investment fund manager of the ETFs once the Filer is registered as an investment fund manager in one of the Jurisdictions. The Exemption sought will not be relied upon until such time.

4. The Filer will be the trustee of the ETFs where the ETF is a trust.
5. The Filer is not in default of securities legislation in any of the Jurisdictions.

The ETFs

6. Each Proposed ETF will be a mutual fund structured as a trust that is governed by the laws of the Province of Ontario. The Future ETFs will be either trusts or corporations or classes thereof governed by the laws of a Jurisdiction or the laws of Canada. Each ETF will be a reporting issuer in the Jurisdiction(s) 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 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 the matters prescribed by NI 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, or will file, a long form prospectus prepared in accordance with NI 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. Because the Listed Securities of the ETFs will be distributed pursuant to a long form prospectus prepared pursuant to NI 41-101 and Form 41-101F2, each ETF will be a reporting issuer in the Jurisdictions in which its securities are distributed.
11. The Filer will list the Listed Securities on the NEO Exchange or another Marketplace. The Filer will not file a final prospectus for any ETF in respect of its Listed Securities until the NEO Exchange or other applicable Marketplace has conditionally approved the listing of such Listed Securities.
12. Listed Securities will be distributed on a continuous basis in one or more of the 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 a multiple thereof) on any day when there is a trading session on the NEO Exchange or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating

investor purchases of Listed Securities on the NEO Exchange or another Marketplace.

13. 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.
14. 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, payment consisting of, depending on the terms of the agreement with the Designated Broker or Authorized Dealer or in the Filer's discretion, a Basket of Securities and cash, cash only or a combination of securities and cash in an amount sufficient so that the value of the Basket of Securities and cash, cash or securities and cash delivered is equal to the net asset value of the Listed Securities subscribed for next determined following the receipt of the subscription order.
15. 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.
16. The Designated Brokers and Authorized Dealers will not receive any fees or commissions 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.
17. 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.
18. 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 NEO Exchange or another Marketplace. Listed Securities may also be issued directly to

Securityholders upon a reinvestment of distributions of income or capital gains.

19. 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 NEO Exchange 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 or other 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 NEO Exchange or other Marketplace on the date of redemption, subject to a maximum redemption price of the applicable net asset value per Listed Security.
20. Holders of Unlisted Securities of an ETF may redeem Unlisted Securities of an ETF in any number for cash at a redemption price per Unlisted Security equal to the net asset value per Unlisted Security of the ETF on the effective day of redemption.

Underwriter's Certificate Requirement

21. 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.
22. The Filer will generally conduct its own marketing, advertising and promotion of the ETFs to the extent permitted by its registrations.
23. 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 an ETF 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

24. As equity securities that will trade on the NEO Exchange or another Marketplace, it is possible for a person or company to acquire such number

of Listed Securities so as to trigger the 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 there can be no changes made to the ETF which do not have the support of the Filer and only the Filer may call a meeting of the Securityholders;
- (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.

25. 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

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

1. The decision of the principal regulator is that the Exemption Sought in respect of the Underwriter's Certificate is granted.
2. The decision of the principal regulator is that the Exemption Sought from the Take-Over Bid Requirements is granted.

As to the Exemption Sought from the Underwriter's Certificate Requirement:

"D. Grant Vingoe"
Title: Commissioner
Ontario Securities Commission

"Mary Anne De Monte-Whelan"
Title: Commissioner
Ontario Securities Commission

As to the Exemption Sought from the Take-over Bid Requirements:

"Darren McKall"
Title: Manager, Investment Funds & Structured Products
Branch
Ontario Securities Commission

2.1.5 1832 Asset Management L.P. 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 – terminating funds and continuing fund do not have substantially similar fundamental investment objectives – 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), and 19.1(2).

May 9, 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
1832 ASSET MANAGEMENT L.P.
(the Manager)**

AND

**SCOTIA LATIN AMERICAN FUND,
SCOTIA PACIFIC RIM FUND
(each, a Terminating Fund, collectively the Terminating
Funds, and together with the Manager on behalf of the
Terminating Funds, the Filers)**

DECISION

BACKGROUND

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filers, for a decision under the securities legislation of the jurisdiction of the principal regulator (the **Legislation**) approving the mergers of each of the Terminating Funds into the Continuing Fund (as defined below) (the **Mergers**), pursuant to paragraph 5.5(1)(b) of National Instrument 81-102 – *Investment Funds* (**NI 81-102**) (the **Approval 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 Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in each of the other provinces and territories in Canada (the **Other Jurisdictions** and collectively with Ontario, the **Jurisdictions**).

INTERPRETATION

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

Circular means the management information circular provided by the Manager in connection with the Mergers.

Continuing Fund means Scotia International Equity Fund.

Funds mean collectively, the Terminating Funds and the Continuing Fund.

Tax Act means the *Income Tax Act* (Canada).

REPRESENTATIONS

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

The Manager

- 1. The Manager is an Ontario limited partnership, which is wholly-owned indirectly by The Bank of Nova Scotia. The general partner of the Manager (the **General Partner**) is 1832 Asset Management G.P. Inc., an Ontario corporation wholly-owned directly by The Bank of Nova Scotia, with its head office in Toronto, Ontario.
- 2. The Manager is the manager of the Funds and is registered as: (i) a portfolio manager in all of the provinces of Canada and in the Northwest Territories and the Yukon; (ii) an exempt market dealer in all of the provinces of Canada (except Prince Edward Island and Saskatchewan); (iii) an investment fund manager in Ontario, Québec, Newfoundland and Labrador and the Northwest Territories; and (iv) a commodity trading manager in Ontario.

The Funds

- 3. Each of the Funds is an open-ended mutual fund trust established under the laws of Ontario.
- 4. Each of the Funds is a reporting issuer under the applicable securities legislation of each Jurisdiction.
- 5. Neither the Manager nor any Fund is in default of securities legislation in any Jurisdiction.
- 6. 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 established under NI 81-102.
- 7. The securities of each Fund are qualified for distribution in the Jurisdictions pursuant to a simplified prospectus and annual information form dated November 9, 2018, prepared and filed in accordance with the securities legislation of the Jurisdictions.
- 8. The net asset value for each series of securities of the Funds is calculated on a daily basis in accordance with the Funds' valuation policy and as described in the simplified prospectus and annual information form for the Funds.

Reasons for the Approval Sought

- 9. Regulatory approval of the Mergers is required because each merger does not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102. In particular:
 - (a) the fundamental investment objectives of the Continuing Fund are not, or may be considered not to be, "substantially similar" to the investment objectives of the Terminating Funds; and
 - (b) each Merger will not be completed as a "qualifying exchange" or a tax-deferred transaction under the Tax Act.
- 10. Except as described in this decision, the Mergers will otherwise comply with all other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

Proposed Mergers

- 11. Pursuant to the Mergers, securityholders of each of the Terminating Funds would become securityholders of the Continuing Fund, as follows:

TERMINATING FUND	CONTINUING FUND
Scotia Latin American Fund	Scotia International Equity Fund
Scotia Pacific Rim Fund	

12. As required by National Instrument 81-107 – *Independent Review Committee for Investment Funds*, the Manager presented the terms of the Mergers to the Independent Review Committee (IRC) of the Funds for a recommendation. The IRC reviewed the Mergers and provided a positive recommendation for each of the Mergers on March 6, 2019, having determined that the Mergers, 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 – *Continuous Disclosure*, a press release and material change report describing the Mergers was issued and filed on SEDAR on March 7, 2019. Amendments to the simplified prospectus, annual information form and fund facts of the Funds were filed with on SEDAR on March 11, 2019.
14. The Manager has determined that the Mergers will constitute a material change for the Continuing Fund. As a result, the Manager will be seeking the prior approval of the securityholders of the Continuing Fund.
15. Securityholders of the Funds will be asked to approve the Mergers at special meetings to be held on or about June 14, 2019.
16. Pursuant to the requirements of notice-and-access exemptive relief granted to the Manager, the Manager will mail a notice-and-access document, form of proxy in connection with the special meeting, and the most recent fund facts of the relevant series of the Continuing Fund, as applicable (collectively, the **Meeting Materials**) to securityholders of the Funds commencing on or about May 10, 2019 and concurrently filed on SEDAR. The Circular, to which the notice-and-access document provides a link, will also be filed on SEDAR at the same time.
17. The Circular outlines the material facts concerning the Mergers relevant to each securityholder, including the differences between fundamental investment objectives and fee structures of the Terminating Funds and the Continuing Fund, the IRC's recommendation of the Mergers, and income tax considerations so that securityholders of the Funds may consider this information before voting on the Mergers. The Circular also describes the various ways in which securityholders can obtain a copy of the simplified prospectus and annual information form of the Continuing Fund, as well as the most recent interim and annual

financial statements and management reports of fund performance for the Continuing Fund, at no cost.

18. Securityholders of the Terminating Funds will continue to have the right to redeem or switch their securities of the Terminating Fund at any time up to the close of business on the business day immediately before the effective date of the Mergers.
19. The Manager will pay for the costs of the Mergers. These costs consist mainly of brokerage charges associated with the trades that occur both before and after the date of the Mergers and legal, proxy solicitation, printing, mailing and regulatory fees.
20. There are no sales charges, redemption fees or other fees or commissions that will be payable by securityholders of the Terminating Funds who acquire securities of the Continuing Fund as a result of the Mergers.
21. The Mergers will be affected on a taxable basis to the Terminating Funds, which the Manager has determined will be in the overall best interests of the investors of the Terminating Funds and the Continuing Fund. Affecting the Mergers on a taxable basis will preserve any unused tax losses of the Continuing Fund, which would otherwise expire upon implementation of the 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.
22. If all required approvals for the Mergers are obtained, the Mergers will be completed on or before July 12, 2019.
23. Following the Mergers, all operational services (such as systematic withdrawal plans and pre-authorized contribution plans) will be available to investors with respect to the Continuing Fund. 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 Mergers.
24. The assets of each Terminating Fund to be acquired by the Continuing Fund in order to effect the Mergers are currently, or will be, acceptable, on or prior to the effective date of the Mergers, to the portfolio manager of the Continuing Fund and are, or will be, consistent with the investment objectives of the Continuing Fund.

Procedure for the Mergers

25. If the necessary approvals are obtained, the Manager will carry out the following steps to complete the Mergers:

- (a) Prior to affecting the Mergers, each Terminating Fund may sell any investment that is not consistent with the investment objective and investment strategies of the Continuing Fund or acceptable to the portfolio manager of the Continuing Fund. As a result, the Terminating Funds may temporarily hold cash or money market instruments and may not be fully invested in accordance with their investment objectives for a brief period of time prior to the Merger being effected.
 - (b) The value of each Terminating Fund's portfolio and other assets will be determined at the close of business on the effective date of the Merger in accordance with the constating documents of the Terminating Fund.
 - (c) The Continuing Fund will acquire the investment portfolio and other assets of the Terminating Funds in exchange for securities of the Continuing Fund. The securities of the Continuing Fund received by each Terminating Fund will (a) have an aggregate net asset value equal to the value of the net assets transferred by the Terminating Fund and (b) be issued at the net asset value per security of the Continuing Fund as of the close of business on the effective date of the Merger.
 - (d) Immediately thereafter, the securities of the Continuing Fund received by each Terminating Fund will be distributed to securityholders of each Terminating Fund in exchange for their securities in the Terminating Fund on a dollar-for-dollar and series-by-series basis.
 - (e) In each case, the investors in the Terminating Funds will receive the same series of securities of the Continuing Fund as such investors hold in the Terminating Funds.
 - (f) The Continuing Fund will not assume any liabilities of the Terminating Funds and the Terminating Funds will retain sufficient assets to satisfy their respective estimated liabilities, if any, as of the effective date of the Mergers.
 - (g) The Terminating Funds will distribute a sufficient amount of their net income and net realized capital gains, if any, to securityholders to ensure that they will not be subject to tax for their current tax year.
 - (h) Each Terminating Fund will be wound up as soon as reasonably possible following the completion of the Merger.
26. Following the implementation of the Mergers, securityholders of the Terminating Funds will cease to be securityholders of the Terminating Fund and will become securityholders of the Continuing Fund. The Continuing Fund will continue as a publicly offered open-ended mutual fund offering securities in the Jurisdictions.
27. No sales charges will be payable in connection with the acquisition by the Continuing Fund of the investment portfolio of the Terminating Funds.
- Merger Benefits*
28. The Manager believes that the Mergers are beneficial to securityholders of the Terminating Funds and Continuing Fund for the following reasons:
- (a) **Economies of scale:** The Mergers will provide economies of scale by eliminating duplicative administrative and regulatory costs of operating the Terminating Funds and the Continuing Fund as separate mutual funds. The Mergers will also allow the Manager to make its international product offering simpler and therefore easier for investors to understand.
 - (b) **Flexible mandate of the Continuing Fund:** While all the Funds have international mandates, the Continuing Fund provides a similar yet broader or more flexible mandate with consistency of management that the Manager believes provides the Continuing Fund with broader investment opportunities that may lead to increased diversification and potentially less volatility.
 - (c) **Increased diversification:** Over the years, interest in narrowly focused regional equity funds such as the Terminating Funds has decreased significantly and the erosion of assets has made it increasingly inefficient to manage the Terminating Funds as standalone mutual funds and provide proper diversification. Following the Mergers, the Continuing Fund will have more assets allowing for increased portfolio diversification opportunities and a smaller proportion of assets set aside to fund redemptions.
 - (d) **Similar or lower fees:** Securityholders of the Terminating Funds will receive units of the Continuing Fund that have lower

administration fees than the units of the funds they currently hold, and securityholders of the Continuing Fund will also benefit from reduced administration fees as a result of the Mergers.

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 Approval Sought is granted, provided that the Filers obtain the prior approval of the securityholders of the Funds for the Mergers at a special meeting held for that purpose.

“Darren McKall”

Manager

Investment Funds and Structured Products Branch

2.1.6 MedMen Enterprises Inc. and Canaccord Genuity Corp.

Headnote

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

Applicable Legislative Provisions

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

National Instrument 44-101 Short Form Prospectus Distributions, Part 8 and Item 20 of Form 44-101F1.

National Instrument 44-102 Shelf Distributions, ss. 5.5, 6.3, and 6.7, Part 9 and ss. 2.1 and 2.2 of Appendix A.

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

March 22, 2019

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

AND

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

AND

**IN THE MATTER OF
MEDMEN ENTERPRISES INC.
(the Issuer)**

AND

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

DECISION

Background

- 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) for the following relief (the Exemption Sought):
 - (a) that the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement applies, send or deliver to the purchaser or its agent the latest prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) and any amendment to the prospectus (the Delivery Requirement) does not apply to the Agent or any other registered investment dealer acting on behalf of the Agent as a selling agent (each, a Selling Agent) in connection with the at-the-market distribution of Class B Subordinate Voting Shares (Class B Shares) of the Issuer under an equity distribution agreement (the Equity Distribution Agreement) to be entered into by the Filers (the ATM Distribution); and

- (b) that the requirements to include the statements specified in items 2 and 3 of section 5.5 of National Instrument 44-102 – *Shelf Distributions* (NI 44-102) in a base shelf prospectus do not apply to the Shelf Prospectus (as defined below), and the requirements to include in a prospectus supplement or in any amendment to a prospectus supplement, each of the following:
- (i) a forward-looking issuer certificate in the form specified in section 2.1 of Appendix A to NI 44-102;
 - (ii) a forward-looking underwriter certificate in the form specified in section 2.2 of Appendix A to NI 44-102; and
 - (iii) a statement respecting purchasers' statutory rights of withdrawal and remedies for rescission or damages in substantially the form prescribed in Item 20 of Form 44-101F1 *Short Form Prospectus*,

do not apply to the Prospectus Supplement (as defined below) or to any amendment to the Prospectus Supplement to be filed in respect of the sale of Class B Shares under ATM Distributions.

The Decision Makers have also received a request from the Filers for a decision that the application and this decision be kept confidential and not made public until the earliest of (i) the date the Filers enter into the Equity Distribution Agreement, (ii) the date on which the Issuer advises the Decision Makers that there is no longer any need to hold the application and this decision in confidence, and (iii) the date that is 90 days after the date of this decision (the Confidentiality Relief).

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

- (a) the British Columbia Securities Commission is the principal regulator for this application (the Principal Regulator);
- (b) the Filers have provided notice that section 4.7 of Multilateral Instrument 11-102 – *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Québec, Newfoundland and Labrador, New Brunswick, Nova Scotia, Prince Edward Island, Yukon, Northwest Territories and Nunavut; 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

- 2 Terms defined in National Instrument 14-101 – *Definitions*, MI 11-102, National Instrument 21-101 – *Marketplace Operation* and National Instrument 13-101 – *System for Electronic Document Analysis and Retrieval (SEDAR)* have the same meaning if used in this decision, unless otherwise defined in this decision.

Representations

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

Background

MedMen Enterprises Inc.

1. the Issuer is a corporation incorporated under the *Business Corporations Act* (British Columbia); the head office of the Issuer is located at 10115 Jefferson Blvd., Culver City, California 90232 and its registered office is located at Suite 2200, HSBC Building, 885 West George Street, Vancouver, British Columbia V6C 3E8;
2. the Class B Shares are listed on the Canadian Securities Exchange (CSE) and are also listed on the OTCQX Best Market (OTCQX);
3. the Issuer is a reporting issuer in each province of Canada other than Québec, and it is contemplated that upon filing and being receipted for the Shelf Prospectus, the Issuer will be a reporting issuer in each province and territory of Canada; the Issuer is not in default of securities legislation in any such jurisdiction of Canada;

Canaccord Genuity Corp.

4. the Agent is a corporation incorporated under the laws of Ontario with its head office in Vancouver, British Columbia;
5. the Agent is registered as an investment dealer under the securities legislation in each province and territory of Canada, is a member of the Investment Industry Regulatory Organization of Canada, and is a participating organization of the CSE; the Agent is not in default of securities legislation in any jurisdiction of Canada;

Proposed ATM Distribution

6. the Issuer has filed a preliminary short form base shelf prospectus in each province and territory of Canada and an amended and restated preliminary short form base shelf prospectus in each province and territory of Canada, other than Québec;
7. subject to mutual agreement on terms and conditions, the Filers propose to enter into an equity distribution agreement (the Equity Distribution Agreement) providing for the sale from time to time by the Issuer through the Agent, as agent, of Class B Shares under the shelf procedures prescribed by Part 9 of NI 44-102;
8. prior to making any ATM Distributions, the Issuer will have filed in each province and territory of Canada (a) a final short form base shelf prospectus (the Shelf Prospectus) providing for distribution from time to time of securities of the Issuer; and (b) a prospectus supplement describing the terms of an ATM Distribution and the Equity Distribution Agreement and otherwise supplementing the disclosure in the Shelf Prospectus (the Prospectus Supplement);
9. upon entering into the Equity Distribution Agreement, the Issuer will immediately:
 - (a) issue and file a news release announcing the Equity Distribution Agreement and indicating that the Shelf Prospectus and the Prospectus Supplement have been filed on SEDAR and specifying where and how purchasers under an ATM Distribution may obtain copies; and
 - (b) file the Equity Distribution Agreement on SEDAR;
10. the Issuer will not, during the period that the final receipt for the Shelf Prospectus is effective, distribute by way of one or more ATM Distributions a total market value of Class B Shares that exceeds 10% of the aggregate market value of Class B Shares, such aggregate market value calculated in accordance with section 9.2 of NI 44-102 and as at the last trading day of the month before the month in which the first ATM Distribution is made;
11. the Issuer will conduct ATM Distributions only through the Agent, as agent, directly or through another registered investment dealer acting as a Selling Agent, and only through the CSE or any other recognized Canadian "marketplace" within the meaning of National Instrument 21-101 – *Marketplace Operation* upon which the Class B Shares are listed or quoted or otherwise traded (a Marketplace);
12. the aggregate number of Class B Shares sold on all Marketplaces under an ATM Distribution on any trading day will not exceed 25% of the trading volume of the Class B Shares on all Marketplaces on that day;
13. the Agent will act as the sole underwriter on behalf of the Issuer in connection with the sale of Class B Shares on a Marketplace under the Equity Distribution Agreement, and will be the sole entity paid an underwriting fee or commission by the Issuer in connection with such sales; the Agent will sign an underwriter's certificate in the Prospectus Supplement;
14. the Agent will effect ATM Distributions on a Marketplace either itself or through a Selling Agent; if sales are effected through a Selling Agent, the Selling Agent will be paid a customary seller's commission for effecting the trades; a purchaser's rights and remedies under the Legislation against the Agent, as underwriter of an ATM Distribution through a Marketplace, will not be affected by a decision to effect the sale directly or through a Selling Agent;
15. the Equity Distribution Agreement will provide that, at the time of each sale of Class B Shares under an ATM Distribution, the Issuer will represent to the Agent that the Shelf Prospectus, as supplemented by the Prospectus Supplement, including the documents incorporated by reference in the Shelf Prospectus (which shall include any news release that has been designated and filed as a Designated News Release as defined and outlined below) and any applicable amendment or supplement to the Shelf Prospectus or the Prospectus

Supplement (together, the Prospectus), contains full, true and plain disclosure of all material facts relating to the Issuer and the Class B Shares being distributed; the Issuer will therefore be unable to proceed with sales under an ATM Distribution when it is in possession of undisclosed information that would constitute a material fact or a material change in respect of the Issuer or the Class B Shares;

16. after the date of the Prospectus Supplement and before the termination of any ATM Distribution, if the Issuer disseminates a news release disclosing information that, in the Issuer's determination, constitutes a "material fact" (as defined in the Legislation), the Issuer will identify such news release as a "designated news release" for the purposes of the Prospectus; this designation will be made on the face page of the version of such news release filed on SEDAR (any such news release, a Designated News Release); the Prospectus Supplement will provide that any such Designated News Release will be deemed to be incorporated by reference into the Shelf Prospectus; a Designated News Release will not be used to update disclosure in the Prospectus by the Issuer in the event of a "material change" (as defined in the Legislation);
17. if, after the Issuer delivers a notice to the Agent directing the Agent to sell Class B Shares on the Issuer's behalf under the Equity Distribution Agreement (a Sell Notice), the sale of the Class B Shares specified in the Sell Notice, taking into consideration prior sales under all previous ATM Distributions, would constitute a material fact or material change, the Issuer would be required to suspend sales under the Equity Distribution Agreement until either (i) it had filed a material change report or amended the Prospectus, or (ii) circumstances had changed so that the sales would no longer constitute a material fact or material change;
18. in determining whether the sale of the number of Class B Shares specified in a Sell Notice would constitute a material fact or material change, the Issuer will take into account a number of factors, including, without limitation (i) the parameters of the Sell Notice, including the number of Class B Shares proposed to be sold and any price or timing restrictions that the Issuer may impose with respect to the particular ATM Distribution, (ii) the percentage of outstanding Class B Shares represented by the number of Class B Shares proposed to be sold under the Sell Notice, (iii) sales under earlier Sell Notices, (iv) trading volume and volatility of Class B Shares, (v) recent developments in the business, affairs and capital structure of the Issuer, and (vi) prevailing market conditions generally;
19. it is in the interest of the Filers to minimize the market impact of sales under an ATM Distribution; the Agent will monitor closely the market's reaction to trades made on Marketplaces under an ATM Distribution in order to evaluate the likely market impact of future trades; the Agent has experience and expertise in managing sell orders to limit downward pressure on trading prices; if the Agent has concerns as to whether a particular sell order placed by the Issuer may have a significant effect on the market price of the Class B Shares, the Agent will recommend against effecting the trade at that time;

Disclosure of Class B Shares Sold

20. the Issuer will disclose the number and average price of Class B Shares sold under ATM Distributions in accordance with the Prospectus, as well as gross proceeds, commission and net proceeds, in its annual and interim financial statements or management discussion and analysis filed on SEDAR;

Prospectus Delivery Requirement

21. pursuant to the Delivery Requirement, a dealer effecting a trade of Class B Shares offered under a prospectus is required to deliver a copy of the prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) to the purchaser within prescribed time limits;
22. delivery of a prospectus is not practicable in the circumstances of an ATM Distribution as neither the Agent nor the Selling Agent, as applicable, effecting the trade will know the purchaser's identity;
23. although purchasers under an ATM Distribution would not physically receive a printed prospectus, the Prospectus (together with all documents incorporated by reference) will be filed and readily available to all purchasers electronically via SEDAR; in addition, the Issuer will issue a news release that specifies where and how copies of the Shelf Prospectus and the Prospectus Supplement can be obtained;
24. the liability of an issuer or an underwriter (and others) for misrepresentation in a prospectus under the civil liability provisions of the Legislation will not be affected by the grant of an exemption from the Delivery Requirement, because purchasers of the securities offered by a prospectus during the period of distribution have a right of action for damages or rescission without regard as to whether the purchaser relied on the misrepresentation or in fact received a copy of the prospectus;

Withdrawal Right and Right of Action for Non-Delivery

25. pursuant to the Legislation, an agreement to purchase securities in respect of a distribution to which the prospectus requirement applies is not binding on the purchaser if a dealer receives, not later than midnight on the second day exclusive of Saturdays, Sundays and holidays, after receipt by the purchaser of the latest prospectus or any amendment to the prospectus, a notice in writing that the purchaser does not intend to be bound by the agreement of purchase (the Withdrawal Right);
26. pursuant to the Legislation, a purchaser of a security to whom a prospectus was required to be sent or delivered in compliance with the Delivery Requirement, but was not so sent or delivered, has a right of action for rescission or damages against the dealer who did not comply with the Delivery Requirement (the Right of Action for Non-Delivery);
27. neither the Withdrawal Right nor the Right of Action for Non-Delivery is workable in the context of an ATM Distribution because of the impracticability of delivering the Prospectus to a purchaser of Class B Shares;

Prospectus Form Requirements

28. to reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement and any amendment thereto will include the following forward-looking issuer certificate (with appropriate modifications in respect of the filing of an amendment prescribed by section 2.4 of Appendix A to NI 44-102), such issuer certificate to supersede and replace any issuer certificate included in the Shelf Prospectus solely with regard to ATM Distributions:

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

29. to reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement and any amendment thereto will include the following forward-looking underwriter certificate (with appropriate modifications in respect of the filing of an amendment prescribed by section 2.4 of Appendix A to NI 44-102), such underwriter certificate to supersede and replace any underwriter certificate included in the Shelf Prospectus solely with regard to ATM Distributions:

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

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

Securities legislation in certain of the provinces and territories of Canada provides purchasers with the right to withdraw from an agreement to purchase securities and with remedies for rescission or, in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment are not delivered to the purchaser, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. However, purchasers of Class B Shares under an at-the-market distribution by the Issuer will not have the right to withdraw from an agreement to purchase the Class B Shares and will not have remedies for rescission or, in some jurisdictions, revision of the price, or damages for non-delivery, because the prospectus, prospectus supplements relating to Class B Shares purchased by a purchaser and any amendment relating to Class B Shares purchased by such purchaser will not be delivered as permitted under a decision dated [●], 2019 and granted under National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions.

Securities legislation in certain of the provinces and territories further provides a purchaser with remedies for rescission or, in some jurisdictions, revisions of the price or damages if the prospectus, the accompanying prospectus supplement and any amendment contains a misrepresentation,

provided that the remedies are exercised by the purchaser within the time limit prescribed by the securities legislation. Any remedies under securities legislation that a purchaser of Class B Shares under an at-the-market distribution by the Issuer may have against the Issuer or the Agent for rescission or, in some jurisdictions, revisions of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contain a misrepresentation will remain unaffected by the non-delivery and the decision referred to above.

The purchaser should refer to the decision referred to above and any applicable provisions of the securities legislation of the purchaser's province or territory for the particulars of these rights or consult with a legal adviser.;

31. the Prospectus Supplement will disclose that, in respect of ATM Distributions under the Prospectus Supplement, the statement prescribed in paragraph 30 above supersedes and replaces the statement of purchasers' rights contained in the Shelf Prospectus; and
32. the statements required by items 2 and 3 of section 5.5 of NI 44-102 to be included in the Shelf Prospectus will be qualified by adding the following: ", except in cases where an exemption from such delivery requirements has been obtained."

Decision

- 4 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) during the 60-day period ending not earlier than 10 days prior to the commencement of an ATM Distribution, the Class B Shares have traded, in total, on one or more Marketplaces, as reported on a consolidated market display:
 - (A) an average of at least 100 times per trading day, and
 - (B) with an average trading value of at least \$1,000,000 per trading day;
- (b) the Issuer shall not, during the period that the final receipt for the Shelf Prospectus is effective, distribute by way of one or more ATM Distributions a total market value of Class B Shares that exceeds 10% of the aggregate market value of Class B Shares, such aggregate market value calculated in accordance with section 9.2 of NI 44-102 and as at the last trading day of the month before the month in which the first ATM Distribution is made;
- (c) the Issuer complies with the disclosure requirements set out in paragraphs 20, 28, 29, 30, 31 and 32 above; and
- (d) the Filers respectively comply with the representations made in paragraphs 3, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 above.

This decision will terminate 25 months from the date of the receipt for the Shelf Prospectus.

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

John Hinze
Director, Corporate Finance
British Columbia Securities Commission

2.1.7 Purpose Investments Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to mutual funds for extensions of lapse dates of their prospectuses – Filer will incorporate offering of the funds under the same offering documents when they are renewed – Extensions of lapse dates 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).

May 22, 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
PURPOSE INVESTMENTS INC.
(the Filer)**

AND

**MLD CORE FUND,
PURPOSE FLOATING RATE INCOME FUND AND
PURPOSE GLOBAL FINANCIALS INCOME 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 respective time limits for the renewal of the simplified prospectus of MLD Core Fund (the **MLD Fund**) dated June 1, 2018 (the **MLD Prospectus**), and combined amended and restated simplified prospectus of Purpose Floating Rate Income Fund (the **PFRI Fund**) and Purpose Global Financials Income Fund (the **PGFI Fund**) dated July 10, 2018, which amended and restated the simplified prospectus dated June 25, 2018 (the **Purpose Prospectus** and together with the MLD Prospectus, the **Prospectuses**) be extended to those time limits that would apply if the lapse date of each Prospectus were July 10, 2019 (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 in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Quebec, Prince Edward Island, Northwest Territories, Nunavut, and Yukon (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 amalgamated under the laws of Ontario. The Filer's head office is located in Toronto, Ontario.
2. The Filer is registered as (i) an investment fund manager in Ontario, Quebec, and Newfoundland and Labrador, (ii) a portfolio manager in British Columbia, Ontario, and Quebec, (iii) a commodity trading manager in Ontario, and (iv) as an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, and Saskatchewan.
3. The Filer is the investment fund manager of the Funds.
4. Each of the Funds is an open-ended mutual fund trust established under the laws of Ontario. The PFRI Fund and PGFI Fund are each reporting issuers under the securities legislation of each of the Canadian Jurisdictions. The MLD Fund is a reporting issuer under the securities legislation of each of the Canadian Jurisdictions, except for Quebec.
5. Neither the Filer nor any of the Funds are in default of securities legislation in any of the Canadian Jurisdictions.
6. The MLD Fund currently distributes securities in the Canadian Jurisdictions, except for Quebec, under the MLD Prospectus.

7. The PFRI Fund and PGFI Fund each currently distribute securities in the Canadian Jurisdictions under the Purpose Prospectus.
8. Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the **Act**), the lapse date of the MLD Prospectus is June 1, 2019 (the **MLD Lapse Date**), and the lapse date of the Purpose Prospectus is June 25, 2019 (the **Purpose Lapse Date**, and together with the MLD Lapse Date, the **Lapse Dates**). Accordingly, under subsection 62(2) of the Act, the distribution of securities of each of the Funds would have to cease on the applicable Lapse Date unless: (i) each of the Funds files a *pro forma* prospectus at least 30 days prior to the applicable Lapse Date; (ii) the final prospectus is filed no later than 10 days after the applicable Lapse Date; and (iii) a receipt for the final prospectus is obtained within 20 days of the applicable Lapse Date.
9. The *pro forma* prospectus of the MLD Fund was required to have been filed by May 2, 2019 (the **MLD Pro Forma Deadline**) in order for securities of the MLD Fund to continue to be distributed after the MLD Lapse Date.
10. Without the Exemption Sought, the *pro forma* prospectus of the PFRI Fund and PGFI Fund would be required to be filed by May 24, 2019 (the **Purpose Pro Forma Deadline**) in order for securities of the PFRI Fund and PGFI Fund to continue to be distributed after the Purpose Lapse Date.
11. The Filer wishes to combine the Prospectuses into a prospectus dated on or about July 10, 2019 in order to reduce renewal, printing and related costs.
12. Offering the Funds under one prospectus would facilitate the distribution of the Funds in the Canadian Jurisdictions under the same prospectus and enable the Filer to streamline disclosure across the Filer's fund platform. As the Funds are managed by the Filer, are established under the same declaration of trust, and share a number of common features, offering them under the same prospectus will allow investors to more easily compare their features.
13. Since securities of the MLD Fund were not previously offered in Quebec, in order to combine the Prospectuses into one prospectus, securities of the MLD Fund will need to be qualified for distribution in Quebec, and renewal documentation and disclosure relating to the MLD Fund will need to be translated into French.
14. The process being undertaken by the Filer to combine the Prospectuses into one prospectus requires additional time in order to properly update and streamline the disclosure of the Funds, and to

complete the aforementioned translation work relating to the MLD Fund. Given the time required to perform these tasks accurately, the Filer did not have sufficient time to finalize and file the *pro forma* prospectus combining the Funds by the MLD Pro Forma Deadline, and does not have sufficient time to finalize and file the *pro forma* prospectus combining the Funds by the Purpose Pro Forma Deadline.

15. In addition, there are dedicated systems, procedures and resources required to prepare the renewal prospectuses, annual information forms, and fund facts documents (the **Renewal Documents**) of each of the Funds. It would have been impractical to alter and modify all of those systems, procedures and resources, and unreasonable to incur the costs and expenses associated therewith, so that the Renewal Documents of the PFRI Fund and PGFI Fund could be filed earlier with the Renewal Documents of the MLD Fund by the MLD Pro Forma Deadline.
16. There have been no material changes in the affairs of each of the Funds since the date of the applicable Prospectus. Accordingly, the Prospectus and current fund facts document(s) of each of the Funds represent current information regarding such Fund.
17. Given the disclosure obligations of the Funds, should a material change in the affairs of any of the Funds occur, the Prospectus and current fund facts document (s) of the applicable Fund(s) will be amended as required under the Legislation.
18. New investors in the Funds will receive the most recently filed fund facts document(s) of the applicable Fund(s). The Prospectuses will still be available upon request.
19. The Exemption Sought will not affect the accuracy of the information contained in the Prospectuses or the fund facts document(s) of the applicable Funds, 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 Branch
 Ontario Securities Commission

2.1.8 Soundvest Split Trust et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of manager of investment fund – change of manager is not detrimental to securityholders or the public interest – change of manager to be approved by the fund's securityholders at a special meeting of the securityholders – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, s. 5.5(1)(a).

June 20, 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
SOUNDVEST SPLIT TRUST
(the Fund)**

AND

**IN THE MATTER OF
SOUNDVEST CAPITAL MANAGEMENT LTD.
(the Filer)**

AND

**IN THE MATTER OF
BRISTOL GATE CAPITAL PARTNERS INC.
(Bristol Gate)**

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 approval (the **Approval Sought**) under NP 11-203 for approval of the change of manager (the **Change of Manager**) for the Fund from the Filer to Bristol Gate under subsection 5.5(1)(a) of National Instrument 81-102 – *Investment Funds* (**NI 81-102**).

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

- (i) the Ontario Securities Commission is the principal regulator (**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 the Jurisdiction, the **Jurisdictions**).

INTERPRETATION

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

Combined Value means the net asset value per Capital Unit (as defined herein) and the Maturity Amount per Preferred Security (as defined herein) determined as of the date such distribution is declared.

Maturity Amount means the outstanding principal amount of the Preferred Securities, together with any accrued interest thereon.

Repayment Price is the amount, in respect of a Preferred Security, equal to the original subscription price, together with any accrued and unpaid interest thereon.

REPRESENTATIONS

This decision is based on the following facts represented by the Filer and Bristol Gate.

The Filer

1. The Filer is currently the manager of the Fund.
2. The Filer is a corporation organized under the laws of Canada, with its head office located in Ottawa, Ontario.
3. The Filer is currently registered as an investment fund manager and a dealer in the category of exempt market dealer in Ontario and as a portfolio manager in Alberta, British Columbia, Ontario and Quebec.

The Fund

4. The Fund is an investment trust established under the laws of Ontario pursuant to a declaration of trust dated as of February 25, 2005, which was amended and restated as of March 28, 2008, and amended and restated as of April 30, 2010, and further amended on March 16, 2015 and on March 31, 2015 (the **Declaration of Trust**).

- Computershare Trust Company of Canada is the trustee of the Fund.
5. The Fund is a reporting issuer in each of the Jurisdictions.
 6. The Fund is authorized to issue an unlimited number of transferrable, redeemable trust units (the **Capital Units**) of one class, each representing an equal, undivided beneficial interest in the net assets of the Fund. Each whole Capital Unit is entitled to one vote at all meetings of unitholders of the Fund (**Unitholders**) and is entitled to participate equally with respect to any and all distributions made by the Fund. As of the date hereof, there were 1,541,090 Capital Units issued and outstanding.
 7. The Fund is also authorized to issue preferred securities (the **Preferred Securities**) which are direct unsecured debt obligations of the Fund. The Preferred Securities are governed by a trust indenture (the **Trust Indenture**) dated March 16, 2005 (as amended) between the Fund and CIBC Mellon Trust Company. Under the terms of the Trust Indenture, the maturity date of the Preferred Securities is March 31, 2020 (the **Maturity Date**), or automatically on such earlier date upon which the Fund terminates. As of the date hereof, there were 1,541,090 Preferred Securities issued and outstanding.
 8. Holders of Preferred Securities are entitled to receive fixed quarterly interest payments of \$0.15 per Preferred Security (6.0% per annum on the original subscription price of \$10.00). The payment of interest on the Preferred Securities is made in priority to any distribution on the Capital Units.
 9. The quarterly distribution on the Capital Units has been suspended as the Fund is not permitted to make or cause to be made any cash distributions on the Capital Units if, immediately after giving effect to the proposed distribution, the Combined Value determined as of the date such distribution is declared would be less than 1.4 times the Repayment Price determined as of the same date. The quarterly distribution on the Capital Units has been suspended since 2011.
 10. Under the annual redemption program of the Fund, Preferred Securities and Capital Units are redeemable on the last business day of November of each year at 100% of the net asset value per unit. The redemption proceeds are allocated as follows: (i) as to the portion of such value equal to the original subscription price of, and any accrued and unpaid interest on, the Preferred Security, as a repayment in full of such Preferred Security; and (ii) as to the remainder of such value, as the proceeds of redemption of the Capital Unit.
 11. Pursuant to the Declaration of Trust, the Filer may, in its sole discretion and upon giving notice to the holders of Capital Units, wind-up the Fund, without the approval of holders of Capital Units, if the net asset value of the Fund falls below \$15 million. The net asset value of the Fund as of May 27, 2019 was \$16.7 million.
 12. The Capital Units and Preferred Securities are listed on the Toronto Stock Exchange (the **TSX**) under the symbol BSD.UN and BSD.PR.A, respectively.
 13. Neither the Filer nor the Fund is in default of any applicable requirements of securities legislation in any Jurisdiction.

Details of the Proposed Transaction

14. On May 2, 2019, the Filer announced that it and Bristol Gate had reached an agreement (the **Agreement**) for Bristol Gate to acquire from the Filer the right to act as the investment fund manager and portfolio manager of the Fund under the Declaration of Trust, the management agreement between the Fund and the Filer and the investment advisory agreement between the Filer as investment manager and investment advisor that will result in the Change of Manager. As a condition to the Change of Manager: (i) the Trust Indenture is to be amended to accelerate the scheduled maturity date of the Preferred Securities from March 31, 2020 to June 26, 2019 (the **New Maturity Date**) or such later date as the Filer may determine which is not less than five business days prior to September 30, 2019 (the **Outside Date**); and (ii) the Declaration of Trust is to be amended to effect a change in the attributes of the Capital Units to provide the Fund with the right to redeem all of the outstanding Capital Units, other than the Capital Units beneficially owned by Bristol Gate or its related parties, on June 26, 2019 (the **Redemption Date**) or such later date as the Filer may determine that is following the Redemption Date and not less than three business days prior to the Outside Date, for an amount, if any, per Capital Unit equal to a pro-rata share of the net assets of the Fund remaining after payment or accrual of all debts and liabilities (including the aggregate repayment price for the Preferred Securities and contingent expenses) and liquidation expenses of the Fund, with payment of the redemption amount to be made in cash by the Fund within two business days following the Redemption Date (collectively, the **Pre-Closing Changes** and, together with the Change of Manager, the **Proposed Transaction**).
15. The parties to the Agreement have agreed to pay all of the costs and expenses related to the Proposed Transaction.

16. The closing of the Proposed Transaction (the **Closing**) is expected to occur on or about June 27, 2019, subject to the receipt of all necessary regulatory and securityholder approvals and the satisfaction or waiver of all other conditions to the Proposed Transaction, or such other date as the Filer and Bristol Gate agree to, but in any event no later than September 30, 2019.
17. It is intended that the Proposed Transaction will result in Bristol Gate becoming the investment fund manager and portfolio manager of the Fund. Following completion of the Proposed Transaction, Bristol Gate intends to apply to the Canadian securities administrators for the Fund to cease being a reporting issuer. Bristol Gate also intends to restructure the Fund as a non-public investment fund including changing the investment objectives and strategies of the Fund, raising capital on a prospectus-exempt basis, following an investment approach that seeks to generate capital gains, and to the extent available, utilize the current net capital loss carry-forwards of the Fund.
18. In accordance with National Instrument 81-106 – *Investment Fund Continuous Disclosure*, a press release announcing the Proposed Transaction was issued on May 2, 2019 and subsequently filed on SEDAR.
19. Pursuant to section 5.1(1)(b) of NI 81-102, special meetings (the **Meetings**) of holders of Capital Units and holders of Preferred Securities (collectively, the **Securityholders**) will be held on June 25, 2019 for the purpose of seeking approval of the Change of Manager and the approval by the holders of Preferred Securities of the New Maturity Date and approval by the holders of the Capital Units of ability by the Fund to redeem the Capital Units on the Redemption Date as described herein.
20. The notice for each of the Meetings and the management information circular in respect of the Meetings (the **Meeting Materials**) describing the Proposed Transaction will be sent to Securityholders on or about June 4, 2019 and copies thereof will be filed on SEDAR following the mailing in accordance with applicable securities legislation. The Meeting Materials will contain sufficient information regarding the Proposed Transaction and all information necessary to allow Securityholders to make an informed decision about the Proposed Transaction. All other information and documents necessary to comply with applicable proxy solicitation requirements of securities legislation for the Meetings will also be mailed to Securityholders.
21. The Filer has determined that the Proposed Transaction is a conflict of interest matter pursuant

to section 5.1 of National Instrument 81-107 – *Independent Review Committee for Investment Funds (NI 81-107)*. The Filer has provided information relating to the Proposed Transaction to the Independent Review Committee (the “IRC”) of the Fund as required by section 5.3 of NI 81-107. The IRC has determined, after reasonable inquiry, that the action achieves a fair and reasonable result for the Fund.

The Change of Manager

22. Bristol Gate is a corporation established under the laws of the Province of Ontario.
23. Bristol Gate is registered as an investment fund manager in Ontario and Québec and as a portfolio manager and exempt market dealer in Alberta, British Columbia, Manitoba, Ontario and Québec.
24. Bristol Gate’s head office is located at 45 St. Clair Avenue West, Suite 601, Toronto, Ontario.
25. Bristol Gate is not in default of any applicable requirements of securities legislation in any Jurisdiction.
26. The principal business activity of Bristol Gate is investment management of portfolios of publicly traded equities that provide high dividend growth to reduce risk and improve returns. As of April 30, 2019, Bristol Gate had over \$1.3 billion in assets under management. Bristol Gate currently is the manager of two exchange traded funds, namely Bristol Gate Concentrated US Equity ETF (TSX:BGU) and Bristol Gate Concentrated Canadian Equity ETF (TSX: BGC).
27. Bristol Gate and the Filer are not related parties. Except pursuant to the Agreement, there are currently no relationships between Bristol Gate and the Filer (or any of their respective affiliates).

Impact of Change of Manager on the Fund

28. Subject to obtaining the Requested Approval, upon Closing, Bristol Gate will become the investment fund manager and portfolio manager of the Fund. Prior to that date, all the Preferred Securities and all the Capital Units, other than the Capital Units held by Bristol Gate and its related parties, will have been redeemed. Bristol Gate will assume the role of manager and portfolio manager of the Fund and Bristol Gate and its related parties will be the only unitholders of the Fund.
29. The business reasons for the Proposed Transaction are to (i) pay-out existing Securityholders as if the Fund was terminating early, and (ii) provide Bristol Gate with an opportunity to restructure the Fund as a non-public investment fund.

30. Immediately prior to Closing, the Capital Units will be voluntarily delisted from the TSX.
 31. The Filer believes that the Proposed Transaction is in the best interests of Unitholders. The Proposed Transaction is being proposed for the following reasons:
 - (a) There is limited trading activity for each of the Capital Units and the Preferred Securities on the TSX. Over the past 12 months, the average monthly trading volume of the Capital Units and the Preferred Securities was 28,327 and 21,292, respectively. If the Proposed Transaction is approved by holders of Capital Units and Preferred Securities at their respective Meeting, all issued and outstanding Capital Units, other than the Capital Units held by Bristol Gate and its related parties, will be redeemed on the Redemption Date and all issued and outstanding Preferred Securities will mature on the New Maturity Date. Accordingly, one of the reasons for the Proposed Transaction is to provide liquidity to securityholders of the Fund which the Filer believes is prudent due to the fact that both the scheduled Maturity Date and the proposed New Maturity Date are less than one year in duration.
 - (b) If the Proposed Transaction is not approved by Unitholders, the Filer expects, in accordance with the Declaration of Trust, in its sole discretion and without the approval of holders of Capital Units, to terminate the Fund on the earlier of: (i) the scheduled Maturity Date of March 31, 2020; or (ii) at such time when the net asset value of the Fund falls below \$15 million. Due to the fact that the scheduled Maturity is less than one year in duration, the Filer believes it would be prudent to liquidate the holdings of the Fund in the short term to protect the Fund against downside risks and capture unrealized gains.
 - (c) The Filer believes that the Proposed Transaction presents a good opportunity for the Unitholders to take advantage of a favourable market window which would allow for the payment of the full Maturity Amount to the holders of the Preferred Securities as the Combined Value of the Fund was \$10.84 as of May 27, 2019, which is up from \$9.71 as of December 31, 2018. As such, if the Proposed Transaction is approved by Unitholders at the Meeting, the Filer believes that the holders of Preferred Securities are more likely to receive the full payment of the Maturity Amount on the New Maturity Date than on the scheduled Maturity Date.
- (d) Similarly, a favourable market window currently exists for the redemption of the Capital Units, as the net asset value per Capital Unit of the Fund was \$0.84 as of May 27, 2019, which is up from nil as of December 31, 2018. As such, if the Proposed Transaction is approved, the Filer believes that the holders of Capital Units are more likely to receive a redemption payment in respect of their Capital Units on the Redemption Date than if the Capital Units were redeemed upon the Fund being terminated and wound-up by the Filer following the Maturity Date.
 - (e) In addition, the Fund's expenses continue to have a negative effect on the net asset value of the Fund specifically due to the reduction in size of the Fund over the years. The redemption of the Capital Units on the Redemption Date allows holders of Capital Units to dispose of their holdings and limit further erosion of the net asset value of the Fund caused by the continued payment of such fees, costs and expenses.
 - (f) Further, the Filer and Bristol Gate have agreed to pay for all of the fees and expenses related to the Proposed Transaction therefore the Filer believes that bringing the Proposed Transaction to the Unitholders for their consideration at the Meetings is in the best interest of the Fund.
32. Securityholders will be asked to approve the Proposed Transaction at the Meetings and the Meeting Materials sent to Securityholders will contain sufficient information regarding the effects of implementing the Proposed Transaction, and all other information necessary to allow Securityholders to make an informed decision about the Proposed Transaction.
33. The Filer and Bristol Gate, and not the Fund, will bear all costs and expenses associated with calling and holding the Meeting and implementing the Proposed Transaction, including legal fees, filing fees and other expenses associated with preparing, printing and mailing the Meeting Materials and obtaining necessary regulatory approvals.
34. Upon Closing, the individuals that comprise the IRC of the Fund will cease to be members of the IRC by operation of subsection 3.10(1)(b) of NI 81-107.

35. Upon Closing, the individuals that will be principally responsible for the investment fund management and portfolio management of the Fund will have the requisite integrity and experience as contemplated under section 5.7(1)(a)(v) of NI 81-102.
36. The Proposed Transaction will not adversely affect Bristol Gate's financial position or its ability to fulfill its regulatory obligations.
37. The Requested Approval will not be detrimental to the protection of investors in the Fund or prejudice 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 Approval Sought is granted, provided that the Filer obtains the prior approval of securityholders of the Fund for the Change of Manager.

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

2.1.9 Arrow Capital Management Inc. and Wavefront Global Diversified Investment Class (formerly Exemplar Diversified Portfolio)

Headnote

NP 11-203 – Process for Exemptive Relief Application in Multiple Jurisdictions – Relief granted to permit the Fund from subsections 2.1(1), 2.2(1) and paragraphs 2.5(2)(a) and (b) of National Instrument 81-102 Mutual Funds to gain exposure to, and purchase and hold, another investment fund subject to certain conditions. The bottom fund will comply with NI 81-102, except as permitted by Former NI 81-104 and in accordance with the Requested Relief obtained by the Fund. The relief permits the Fund to continue its existing strategy while not permitting it to rely on the new cash borrowing and short selling provisions.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.1(1), 2.2(1), 2.5(2)(a), 2.5(2)(c), 9.3, and 19.1.

June 21, 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
ARROW CAPITAL MANAGEMENT INC.
(the Filer)**

AND

**WAVEFRONT GLOBAL DIVERSIFIED INVESTMENT CLASS
(formerly Exemplar Diversified Portfolio)
(the Fund)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund of which the Filer is the investment fund manager, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the “Legislation”):

- (i) to revoke and replace the Previous Decision (as defined below); and
- (ii) to grant exemptive relief pursuant to section 19.1 of National Instrument 81-102 *Investment Funds (NI 81-102)*:
 - (A) to permit the Fund to adopt investment restrictions contained in NI 81-102 prior to the amendments on January 3, 2019 and be managed in accordance with these restrictions, except as was otherwise permitted by National Instrument 81-104 *Commodity Pools* (“**Former 81-104**”); and
 - (B) from the requirements set out in subsections 2.1(1.1), 2.2(1) and 2.5(2)(a.1) of NI 81-102, to permit the Fund to acquire and maintain securities of the Sub-Fund (as defined below) and to permit the Sub-Fund, and the Fund indirectly through the Sub-Fund, to invest in the Bottom Fund (as defined below) which has adopted the investment restrictions contained in NI 81-102 and is managed in accordance with these restrictions, except as was otherwise permitted by Former 81-104, and in accordance with any exemptions therefrom obtained by the Fund.

(Collectively, the “**Requested Relief**”)

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

- (a) the Ontario Securities Commission is the principal regulator for this application;
- and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11- 102 Passport System (MI 11-102) is intended to be relied upon in each of the other provinces and territories of Canada (collectively, the “**Other Jurisdictions**”) (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

The Filer

- 1. The Filer is a corporation existing under the laws of Ontario having its registered head office in Toronto, Ontario.
- 2. The Filer is registered in the following categories in the jurisdictions as indicated below:
 - (a) Ontario: Portfolio Manager (“**PM**”), Investment Fund Manager (“**IFM**”); Exempt Market Dealer (“**EMD**”) and Commodity Trading Manager under the *Commodity Futures Act* (Ontario);
 - (b) Alberta: EMD;
 - (c) British Columbia: EMD;
 - (d) Quebec: EMD and IFM; and
 - (e) Newfoundland and Labrador: IFM.
- 3. The Filer is not in default of securities legislation in Ontario or any Other Jurisdiction.

The Fund

- 4. The Fund is a mutual fund to which NI 81-102 applies. Prior to the alternative mutual fund amendments (the “**Alternative Mutual Fund Amendments**”) to NI 81-102 becoming effective on January 3, 2019, the Fund was also a “commodity pool” as such term was defined in Former NI 81-104, in that the Fund had adopted fundamental investment objectives that permitted the Fund to gain exposure to or use or invest in specified derivatives in a manner that is now not permitted under NI 81-102.
- 5. The Fund is a reporting issuer in each of the Jurisdictions and shares of the Fund are currently qualified for distribution in each of the Jurisdictions under the long-form prospectus of the Fund dated June 8, 2018 (the “**Fund’s Prospectus**”).
- 6. Concurrent with this application, the Fund is filing a simplified prospectus, annual information form and fund facts such that the Fund will become an alternative mutual fund to which NI 81-102 applies in that the Fund has fundamental investment objectives that permits it to invest in specified derivatives in a manner not permitted for other mutual funds under NI 81-102.
- 7. The Fund began operations on May 1, 2009 and has continuously operated since that date as a commodity pool, investing in a diversified portfolio of futures and other derivatives on a variety of different underlying assets.
- 8. The Fund’s investment objective is to seek superior long term absolute and risk-adjusted returns with the potential for low correlation to global equity and fixed-income market returns through the selection and management of long and short positions in a globally diversified portfolio of futures, options, forward contracts and other financial derivative

instruments on agricultural and soft commodities, metals, energies, currencies, interest rates and equity indices (the “**Underlying Assets**”).

9. The Fund may either invest directly in the Underlying Assets, indirectly in the Bottom Fund through the Sub-Fund or a combination of the Underlying Assets and the Bottom Fund. The return of the Fund is based on the combined performance of the direct investments by the Fund in the Underlying Assets and/or the performance of the Bottom Fund's investment in the Underlying Assets.
10. The Fund does not intend to list the Shares on any stock exchange.
11. The Fund obtained a previous decision dated July 20, 2016 (the “**Previous Decision**”) exempting the Fund from subsections 2.1(1), 2.2(1), 2.5(2)(a) and (c) of NI 81-102 to permit the Fund to purchase and hold securities of an investment fund (the “**Sub-Fund**”) and to permit the Sub-Fund, and the Fund indirectly through the Sub-Fund, to invest in a further investment (the “**Bottom Fund**”). The Bottom Fund is managed with the same investment strategy as the Fund, is sub-advised by the Sub-Advisor and has adopted the investment restrictions contained in NI 81-102 and be managed in accordance with these restrictions, except as otherwise permitted by Former NI 81-104, and in accordance with any exemptions therefrom obtained by the Fund.
12. The Fund may either invest directly in the Underlying Assets, indirectly in the Bottom Fund through the Sub-Fund or a combination of the Underlying Assets and the Bottom Fund. The return of the Fund is based on the combined performance of the direct investments by the Fund in the Underlying Assets and/or the performance of the Bottom Fund's investment in the Underlying Assets.
13. Prior to the Alternative Mutual Fund Amendments, Former NI 81-104 did not contain an aggregate exposure limit on leverage obtained through specified derivatives transactions for commodity pools. The Alternative Mutual Fund Amendments have moved most of the regulatory framework currently applicable to commodity pools under Former NI 81-104 into NI 81-102 and renamed these funds as “**alternative mutual funds**”.
14. The aggregate exposure limits in the Alternative Mutual Fund Amendments prevents alternative mutual funds and non-redeemable investment funds under NI 81-102, including the Fund, from obtaining aggregate exposure to cash borrowing, short selling and specified derivatives transactions in excess of 300% of the fund's net asset value.
15. The new restrictions on aggregate exposure are expected to have a significant impact on the Fund that has operated in accordance with applicable regulatory requirements without limitations on the Fund's and the Bottom Fund's aggregate exposure through specified derivatives in their investment strategies prior to the implementation of the Alternative Mutual Fund Amendments.
16. For non-redeemable investment funds, the Alternative Mutual Fund Amendments allow for “grandfathering” of existing funds that may be unduly impacted by the changes, including investment restrictions in subsection 2.9.1, provided the non-redeemable investment fund was established before October 4, 2018, unless the fund has filed a prospectus for which a receipt was issued after that date.
17. Unlike for non-redeemable investment funds, NI 81-102 does not contain transition provisions that would allow for grandfathering of existing commodity pools under the Alternative Mutual Fund Amendments.
18. The Requested Relief is required to permit the Fund to purchase and hold securities, either directly or through the Sub-Fund and Bottom Fund, to obtain exposure to the Underlying Assets managed in accordance with the investment objectives of the Fund. The Fund will be managed in substantially the same manner as it did prior to the implementation of the Alternative Mutual Fund Amendments.

The Sub-Fund and the Bottom Fund

19. Subject to the Previous Decision, the Fund's investment Sub-Advisor employs an active investment management strategy to pursue the Fund's investment objectives by directly or indirectly obtaining exposure to the Underlying Assets. The Fund may obtain exposure to the Underlying Assets either directly or in a three-tier structure whereby: (1) the Fund may invest all, other than cash and cash equivalents, or a portion of its assets in non-voting securities of the Sub-Fund; (2) the Sub-Fund invests all of its assets in the Bottom Fund; and (3) the Bottom Fund acquires and maintains the Underlying Assets. In the three-tier structure the return to the Fund, and consequently to the shareholders of the Fund, and the return of the Sub-Fund will be based on the performance of the Bottom Fund, which, in turn, will be based on the performance of the Underlying Assets.
20. The Sub-Advisor to the Fund will be the investment adviser to the Sub-Fund and the Bottom Fund and will actively manage the Underlying Assets. The Sub-Advisor is registered as a commodity trading manager in the province of

Ontario and as an exempt market dealer in the provinces of Ontario, Quebec, British Columbia and Alberta and also registered in the United States as a commodity trading advisor and commodity pool operator with the Commodity Futures Trading Commission and as an investment advisor with the Securities and Exchange Commission. The head office of the Sub-Advisor is located in Toronto, Ontario.

21. The Sub-Fund has filed a non-offering prospectus in the provinces of Ontario and Quebec pursuant to which it will become a reporting issuer under the *Securities Act* (Ontario) and the *Securities Act* (Québec) and is subject to the continuous disclosure requirements of National Instrument 81-106 *Investment Fund Continuous Disclosure* ("NI 81-106"). Accordingly, the financial statements and other reports required to be filed by the Sub-Fund will be available through SEDAR.
22. The Bottom Fund has filed a non-offering prospectus in the provinces of Ontario and Quebec pursuant to which it will become a reporting issuer under the *Securities Act* (Ontario) and the *Securities Act* (Québec) and is subject to the continuous disclosure requirements of NI 81-106. Accordingly, the financial statements and other reports required to be filed by the Bottom Fund will be available through SEDAR.
23. Both the Sub-Fund and the Bottom Fund are mutual funds because holders of their securities will be entitled to receive on demand, an amount computed by reference to the NAV of the net asset value of the Sub-Fund and the Bottom Fund, respectively. However, the Sub-Fund and the Bottom Fund will not distribute any securities under their respective non-offering prospectus and accordingly the Sub-Fund and the Bottom Fund will be a mutual fund to which NI 81-106 applies, but will not be subject to the requirements of either NI 81-102 or Former NI 81-104.
24. Though not subject to NI 81-102, the Sub-Fund will be a "**clone fund**" as such term is defined in NI 81-102 as its fundamental investment objective will be to track the performance of the Bottom Fund. The Fund will be the sole securityholder of the participating, non-voting securities of the Sub-Fund. Notwithstanding that the Sub-Fund will be a clone fund, the Sub-Fund will adopt the investment restrictions contained in NI 81-102 except as otherwise permitted by Former NI 81-104 and in accordance with any exemptions therefrom obtained by the Fund, including the exemption obtained to permit the Fund to invest in the Sub-Fund and indirectly in the Bottom Fund.
25. Though not subject to NI 81-102, the Bottom Fund has adopted fundamental investment objectives that permit it to invest in physical commodities or specified derivatives in a manner that is not permitted for other mutual funds under NI 81-102. Notwithstanding that the Bottom Fund will not be subject to NI 81-102, the Bottom Fund has adopted the investment restrictions contained in NI 81-102 and the Underlying Assets will be managed in accordance with these restrictions, except as otherwise permitted by Former NI 81-104 and in accordance with any exemptions therefrom obtained by the Sub-Fund, including the exemption obtained to permit the Sub-Fund to invest in the Bottom Fund.
26. The Fund will only invest in securities of the Sub-Fund, to gain exposure to the Bottom Fund and the Underlying Assets, in accordance with its investment strategies and investment restrictions.
27. The Investment Manager will monitor the Bottom Fund's compliance with its investment restrictions for the Underlying Assets.
28. The investment by the Fund indirectly in securities of the Bottom Fund will indirectly comply with the requirements of NI 81-102, except that as was otherwise permitted by Former 81-104.
29. As of the date that the Requested Relief is granted, the Filer will no longer to rely on the Previous Decision.

Requested Relief

30. The investment objectives and strategies of the Fund and the Bottom Fund will permit each of the Fund and the Bottom Fund to have aggregate exposure to specified derivatives transactions subject to the investment restrictions contained in NI 81-102, except as otherwise permitted by Former NI 81-104 and subject to receipt of any exemptions therefrom obtained by the Fund or the Bottom Fund.
31. The granting of the Requested Relief will not expose the Fund or its shareholders to additional risks as the Fund will continue to have the same investment exposure as it did prior to the implementation of the Alternative Mutual Fund Amendments and the Fund will not engage in any new borrowing or short selling of securities.
32. The investment by the Fund in securities of the Sub-Fund and by the Sub-Fund in securities of the Bottom Fund represents the business judgement of responsible persons uninfluenced by considerations other than the best interest of the Fund and the shareholders, respectively.

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:

1. the Fund is an alternative mutual fund subject to NI 81-102 that filed a long form prospectus as a commodity pool under Former NI 81-104 prior to the Alternative Mutual Fund Amendments;
2. the Sub-Fund is an investment fund that complies with the investment restrictions contained in NI 81-102 and the Underlying Assets are managed in accordance with these restrictions, except as otherwise permitted by Former NI 81-104 and in accordance with any exemptions therefrom obtained by the Fund, and the Fund will not engage in any new borrowing or short selling of securities;
3. the Bottom Fund is an investment fund that complies with the investment restrictions contained in NI 81-102 and the Underlying Assets are managed in accordance with these restrictions, except as otherwise permitted by Former NI 81-104 and in accordance with any exemptions therefrom obtained by the Fund, and the Fund will not engage in any new borrowing or short selling of securities;
4. the investment by the Fund in securities of the Sub-Fund to gain indirect exposure to the Bottom Fund and the Underlying Assets is in accordance with the fundamental investment objectives of the Fund;
5. the Sub-Fund is a reporting issuer subject to NI 81-106;
6. the Bottom Fund is a reporting issuer subject to NI 81-106;
7. no securities of the Sub-Fund or the Bottom Fund are distributed in Canada other than the distribution of the securities of the Sub-Fund to the Fund;
8. the investment by the Fund in securities of the Sub-Fund to gain indirect exposure to the Bottom Fund and the Underlying Assets is made in compliance with each provision of NI 81-102, except subsection 2.1(1.1), 2.2(1) and 2.5(2)(a.1) of NI 81-102;
9. the specified derivatives transactions entered into by the Fund, the Sub-Fund and the Bottom Fund will be consistent with the fundamental investment objectives and investment strategies of the Fund;
10. the Fund's simplified prospectus, annual information form and fund facts documents will disclose, that the Fund will invest in securities of the Sub-Fund, which will in turn invest in the Bottom Fund to gain indirect exposure to the Underlying Assets, and will contain adequate disclosure to ensure that shareholders of the Fund are fully aware of the specified derivatives transactions entered into by the Fund, the Sub-Fund and the Bottom Fund and the risks associated therewith; and
11. this decision shall expire upon a material change in the fundamental investment objectives and investment strategies of the Fund, the Sub-Fund or the Bottom Fund.

"Darren McKall"

Manager

Investment Funds & Structured Products Branch

Ontario Securities Commission

2.2 Orders

2.2.1 Neuberger Berman Investment Advisers LLC – s. 80 of the CFA

Headnote

Foreign adviser exempted from the adviser registration requirement in section 22(1)(b) of the Commodity Futures Act (Ontario) in order to act as:

- 1) an adviser in respect of commodity futures contracts and commodity futures options for certain institutional investors in Ontario – Clients meet the definition of “permitted client” in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Contracts and options are primarily traded on commodity futures exchanges outside of Canada and primarily cleared outside of Canada; and
- 2) a sub-adviser in respect of commodity futures contracts and commodity futures options for principal advisers registered under the Commodity Futures Act (Ontario).

Terms and conditions on exemption correspond to the relevant terms and conditions on the comparable exemption from the adviser registration requirement available to:

- 1) international advisers in respect of securities set out in section 8.26 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations; and
- 2) sub-advisers with a head office or principal place of business in a foreign jurisdiction in respect of securities set out in section 8.26.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.

Exemption also subject to a five-year “sunset clause” condition.

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20., as am., ss. 1(1), 22(1)(b), 80.

Securities Act, R.S.O. 1990, c. S.5, as am., s. 25(3).

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 1.1, 8.26, and 8.26.1.

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

AND

**IN THE MATTER OF
NEUBERGER BERMAN INVESTMENT ADVISERS LLC**

**ORDER
(Section 80 OF THE CFA)**

UPON the application (the **Application**) of Neuberger Berman Investment Advisers LLC (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA exempting the Applicant and any individuals engaging in, or holding themselves out as engaging in, the business of advising others as to trading in Contracts (as defined below) on the Applicant's behalf (the **Representatives**), for a specified period of time, from the adviser registration requirement in paragraph 22(1)(b) of the CFA, subject to certain terms and conditions;

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

AND WHEREAS for the purposes of this order (the **Order**):

“**CFA Adviser Registration Requirement**” means the requirement in paragraph 22(1)(b) of the CFA that prohibits a person or company from acting as an adviser with respect to trading in Contracts unless the person or company is registered in the appropriate category of registration under the CFA;

“**CFTC**” means the United States Commodity Futures Trading Commission;

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

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

“**Initial Principal Adviser**” means Purpose Investments Inc.;

“**International Adviser Exemption**” means the exemption set out in section 8.26 of NI 31-103 from the OSA Adviser Registration Requirement (as defined below);

“**International Sub-Adviser Exemption**” means the exemption set out in section 8.26.1 of NI 31-103 from the OSA Adviser Registration Requirement;

“**NFA**” means the United States National Futures Association;

“**NI 31-103**” means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“**OSA**” means the *Securities Act*, R.S.O. 1990, c. S.5, as amended;

“**OSA Adviser Registration Requirement**” means the requirement in subsection 25(3) of the OSA that prohibits a person or company from engaging in or holding himself, herself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities, unless the person or company is registered in the appropriate category of registration under the OSA;

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

“**Principal Adviser**” means the Initial Principal Adviser and any other adviser registered under the CFA for which the Applicant provides Sub-Advisory Services (defined below);

“**SEC**” means the United States Securities and Exchange Commission;

“**specified affiliate**” has the meaning ascribed to that term in *Firm Registration* to Ontario Securities Commission Rule 33-506 (*Commodity Futures Act*) *Registration Information*.

“**U.S. Advisers Act**” means the United States *Investment Advisers Act of 1940*; and

“**U.S.A.**” or “**United States**” means the United States of America.

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware with its principal place of business located at 1290 Avenue of the Americas, New York, New York, United States of America 10104.
2. The Applicant is an investment adviser that manages investments across multiple strategies and financial instruments. As at December 31, 2018, the Applicant, together with its affiliates, had over US\$300 billion in assets under management.
3. The Applicant is:
 - (i) currently registered with the SEC as an investment adviser under the U.S. Advisers Act;
 - (ii) registered with the CFTC as a commodity pool operator and commodity trading advisor; and
 - (iii) an approved member of the NFA.

As such, the Applicant is permitted to carry on Advisory Services (defined below) and Sub-Advisory Services (defined below) in the U.S.A.

4. The Applicant and the Representatives are registered in a category of registration, or operate under an exemption from registration, under the commodities futures or other applicable legislation of the United States, that permit them to carry on the activities in that jurisdiction that registration as an adviser and sub-adviser under the CFA would permit them to carry on in Ontario.
5. The Applicant maintains an office in Canada located at First Canadian Place, 100 King Street West, 58th Floor, Suite 5850, Toronto, Ontario, Canada, M5X 1E4.
6. The Initial Principal Adviser is a Corporation amalgamated under the *Business Corporations Act* (Ontario) with its head office located in Ontario.
7. The Initial Principal Adviser is registered:
 - (i) under the securities legislation in each of the provinces of Canada as a dealer in the category of exempt market dealer;
 - (ii) under the securities legislation in each of the provinces of Canada as an investment fund manager;
 - (iii) under the securities legislation in British Columbia, Ontario and Québec as an adviser in the category of portfolio manager; and
 - (iv) under the CFA in Ontario as a commodity trading manager.
8. The Applicant is not registered in any capacity under the OSA or CFA or under the securities legislation of any other jurisdiction of Canada.
9. The Applicant currently relies on the International Advisor Exemption or relief substantially similar thereto in the ten Canadian provinces, and relies on the exemption from the requirement to register as an investment fund manager in Multilateral Instrument 32-102 *Registration Exemptions for Non-Resident Investment Fund Managers*, or relief substantially similar thereto, in Ontario, Quebec and Newfoundland and Labrador, in order to provide portfolio advisory and investment fund management services in respect of securities to Permitted Clients in these jurisdictions.
10. The Applicant is not in default of securities legislation, commodity futures legislation or derivatives legislation in any jurisdiction in Canada. The Applicant is in compliance in all material respects with securities laws, commodity futures laws and derivatives laws of the United States.
11. The Applicant seeks to act as a discretionary investment manager on behalf of institutional investors in Ontario that are Permitted Clients that seek to engage the Applicant as a discretionary investment manager for purposes of implementing certain investment strategies employing primarily Foreign Contracts (the **Advisory Services**).
12. Each Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager and seeks to retain the Applicant to act as a sub-adviser for purposes of providing, on a discretionary basis, certain specialized investment strategies employing Contracts (the **Sub-Advisory Services**) to the Principal Adviser's Sub-Advisory Clients (defined below).
13. Each Principal Adviser is, or will be, the investment fund manager of and/or provides, or will provide, discretionary portfolio management services in Ontario to: (i) investment funds, the securities of which will be qualified by prospectus for distribution to the public in Ontario and the other provinces and territories of Canada (the **Investment Funds**); (ii) investment funds, the securities of which will be sold on a private placement basis in Ontario and certain other Canadian jurisdictions pursuant to prospectus exemptions contained in National Instrument 45-106 *Prospectus Exemptions* (the **Pooled Funds**); and (iii) managed accounts of clients who have entered into investment management agreements with a Principal Adviser (the **Managed Accounts**) (each of the Investment Funds, Pooled Funds and Managed Accounts are each referred to individually as a **Sub-Advisory Client** and collectively as the **Sub-Advisory Clients**).
14. Discretionary portfolio management services provided, or to be provided, by a Principal Adviser to its Sub-Advisory Clients include, or will include, acting as an adviser with respect to both securities and Contracts where such investments are part of the investment program of such Sub-Advisory Clients. The Principal Adviser acts, or will act, as a commodity trading manager in respect of such Sub-Advisory Clients.

15. The Advisory Services and Sub-Advisory Services will include the use of investment strategies employing Contracts, and, in respect of the Advisory Services, the Applicant will not advise Permitted Clients in Ontario on Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts.
16. In connection with a Principal Adviser acting as an adviser to Sub-Advisory Clients in respect of the purchase or sale of Contracts, such Principal Adviser, pursuant to a written agreement made between the Principal Adviser and the Applicant, will retain the Applicant to provide the Sub-Advisory Services in respect of all or a portion of the assets of the investment portfolio of the respective Sub-Advisory Client, provided that such investments are consistent with the investment objectives and strategies of the applicable Sub-Advisory Client.
17. The Applicant and its Representatives will only provide the Sub-Advisory Services as long as each Principal Adviser is, and remains, registered under the CFA as an adviser in the category of commodity trading manager.
18. The relationship among each Principal Adviser, the Applicant and any Sub-Advisory Client will be consistent with the requirements of section 8.26.1 of NI 31-103.
19. As would be required under section 8.26.1 of NI 31-103:
 - (a) the obligations and duties of the Applicant are set out in a written agreement with each Principal Adviser;
 - (b) each Principal Adviser will enter into a written agreement with each Sub-Advisory Client, agreeing to be responsible for any loss that arises out of the failure of the Applicant:
 - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and each Sub-Advisory Client; or
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**).
20. The written agreement between each Principal Adviser and the Applicant sets out the obligations and duties of each party in connection with the Sub-Advisory Services and will permit the Principal Adviser to exercise the degree of supervision and control it is required to exercise over the Applicant in respect of the Sub-Advisory Services.
21. Each Principal Adviser shall deliver to the Sub-Advisory Clients all required reports and statements under applicable securities, commodity futures and derivatives legislation.
22. The prospectus or other offering document (in either case, the **Offering Document**) of each Sub-Advisory Client that is an Investment Fund or Pooled Fund and for which a Principal Adviser engages the Applicant to provide Sub-Advisory Services includes, or will include, the following (the **Required Disclosure**):
 - (a) A statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Applicant to meet the Assumed Obligations; and
 - (b) A statement that there may be difficulty in enforcing any legal rights against the Applicant (or any of its Representatives) because the Applicant is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.
23. Prior to purchasing any securities of one or more of the Sub-Advisory Clients that are Investment Funds or Pooled Funds directly from a Principal Adviser, all investors in the Investment Funds or Pooled Funds who are Ontario residents will receive the Required Disclosure in writing (which may be in the form of an Offering Document).
24. Each client that is a Managed Account Client for which a Principal Adviser engages the Applicant to provide Sub-Advisory Services will receive the Required Disclosure in writing prior to the purchasing of any Contracts for such Sub-Advisory Client.

25. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA or is registered as a representative or as a partner or an officer of a registered adviser and is acting on behalf of such registered adviser.
26. By providing the Advisory Services and the Sub-Advisory Services, the Applicant and its Representatives will be engaging in, or holding himself, herself or itself out as engaging in, the business of advising others in respect of Foreign Contracts and, absent the requested relief, would be required to register as an adviser under the CFA.
27. There is currently no exemption from the CFA Adviser Registration Requirement that is equivalent to the International Adviser Exemption or the International Sub-Adviser Exemption. Consequently, in order to advise Permitted Clients or Principal Advisers as to trading in Foreign Contracts, in the absence of being granted the requested relief, the Applicant would be required to satisfy the CFA Adviser Registration Requirement by applying for and obtaining registration in Ontario as an adviser under the CFA in the category of commodity trading manager.

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

IT IS ORDERED, pursuant to section 80 of the CFA, that the Applicant and its Representatives are exempt from the adviser registration requirement of paragraph 22(1)(b) of the CFA in respect of the Advisory Services and acting as a sub-adviser to the Principal Adviser in respect of the Sub-Advisory Services, provided that:

- A. the Applicant's head office or principal place of business remains in the United States;
- B. the Applicant remains: (i) registered with the SEC as an investment adviser under the U.S. Advisers Act, (ii) registered with the CFTC as a commodity pool operator and commodity trading advisor, and (iii) an approved member of the NFA on a basis which permits it to carry on the activities in the United States that registration as an adviser under the CFA would permit it to carry on in Ontario;
- C. the Applicant engages in the business of an adviser, as defined in the CFA;
- D. (a) in respect of the Advisory Services:
 - (i) the Applicant provides advice only as to trading in Foreign Contracts and does not provide advice as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;
 - (ii) as at the end of the Applicant's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships (excluding the gross revenue of an affiliate or affiliated partnership of the Applicant that is registered under securities laws, commodity futures laws, or derivatives laws in a jurisdiction of Canada) was derived from the portfolio management activities of the Applicant, its affiliates and its affiliated partnerships in Canada (which, for greater certainty, includes both securities-related and commodity futures-related activities);
 - (iii) before advising a Permitted Client, the Applicant notifies the Permitted Client of all of the following:
 1. the Applicant is not registered in Ontario to provide the advice described under paragraph D(a)(i) of the conditions of this Order;
 2. the foreign jurisdiction in which, the Applicant's head office or principal place of business is located;
 3. all or substantially all of the Applicant's assets may be situated outside of Canada;
 4. there may be difficulty enforcing legal rights against the Applicant because it is resident outside of Canada and all or substantially all of its assets may be situated outside of Canada; and
 5. the name and address of the Applicant's agent for service of process in Ontario;

- (iv) the Applicant has submitted to the Commission a completed *Submission to Jurisdiction* in the form attached as Appendix "A";
- (v) the Applicant notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Applicant, or any predecessors, or specified affiliates of the Applicant, by completing and filing Appendix "B" within 10 days of the commencement of each such action, provided that the Applicant may also satisfy this condition by filing with the Commission:
 - a. within 10 days of the date of this Order, a notice making reference to, and incorporating by reference the disclosure made by, the Applicant pursuant to federal securities laws of the U.S.A. that is identified on the Investment Adviser Public Disclosure website; and
 - b. promptly, a notification of any amendment to the Applicant's Form ADV and/or filing by the Applicant with the SEC that relates to legal and/or regulatory actions;
- (v) if the Applicant is not registered under the OSA and does not rely on the International Adviser Exemption, by December 31st of each year, the Applicant pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of Ontario Securities Commission Rule 13-502 Fees as if the Applicant relied on the International Adviser Exemption; and
- (vi) by December 1 of each year, the Applicant notifies the Commission of its continued reliance on the exemption from registration granted pursuant to this Order;
- (b) in respect of acting as a sub-adviser to a Principal Adviser:
 - (i) Upon the request of staff of the Commission, the Applicant agrees to provide information with respect to any Principal Adviser for which the Applicant is acting as a sub-adviser;
 - (ii) the Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
 - (iii) the obligations and duties of the Applicant are set out in a written agreement with the Principal Adviser;
 - (iv) the Applicant shall not act as a sub-adviser to the Principal Adviser unless the Principal Adviser has contractually agreed with the applicable Sub-Advisory Client to be responsible for any loss that arises out of any failure of the Applicant to meet the Assumed Obligations;
 - (v) the Applicant will ensure, or has ensured, that the Offering Document of each Sub-Advisory Client that is an Investment Fund or Pooled Fund and for which the Principal Adviser engages the Applicant to provide Sub-Advisory Services will or does include the Required Disclosure;
 - (vi) prior to purchasing any securities of one or more of the Sub-Advisory Clients that are Investment Funds directly from the Principal Adviser, the Applicant will ensure, or has ensured, that all investors in these Investment Funds or Pooled Funds who are Ontario residents will receive, or has received, the Required Disclosure in writing (which may be in the form of an Offering Document);
 - (vii) the Applicant will ensure that each Sub-Advisory Client that is a Managed Account for which the Principal Adviser engages the Applicant to provide the Sub-Advisory Services will receive, or has received, the Required Disclosure in writing prior to purchasing any Contracts for such Sub-Advisory Client; and

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

- (i) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;
- (ii) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in

the OSA) that affects the ability of the Applicant to act as a sub-adviser to the Principal Adviser in respect of the Sub-Advisory Services or to provide Advisory Services to Permitted Clients; and

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

DATED at Toronto, Ontario, this **14th** day of **June**, 2019.

“Mary Anne DeMonte-Whelan”
Vice-Chair or Commissioner
Ontario Securities Commissioner

“Poonam Puri”
Vice-Chair or Commissioner
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

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

1. Name of person or company ("International Firm"):
2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:
3. Jurisdiction of incorporation of the International Firm:
4. Head office address of the International Firm:
5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

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

☐ Section 8.18 [*international dealer*]

☐ Section 8.26 [*international adviser*]

☐ Other [specify]:
7. Name of agent for service of process (the "Agent for Service"):
8. Address for service of process on the Agent for Service:
9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.
10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.
11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator
 - a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;
 - b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service;
 - c. a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.
12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Decisions, Orders and Rulings

Dated: _____

(Signature of the International Firm or authorized signatory)

(Name of signatory)

(Title of signatory)

Acceptance

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

Dated: _____

(Signature of the Agent for Service or authorized signatory)

(Name of signatory)

(Title of signatory)

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

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

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates¹ of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

Yes _____ No _____

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

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

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

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

If yes, provide the following information for each action:

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

¹ Terms defined in Form 33-506F6 *Firm Registration* to Ontario Securities Commission Rule 33-506 (*Commodity Futures Act*) *Registration Information* have the same meaning if used in this Appendix except that any reference to "firm" means the person or company relying on relief from the requirement to register as an adviser or dealer under the *Commodity Futures Act* (Ontario).

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

Yes _____ No _____

If yes, provide the following information for each investigation:

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

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

Witness

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

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

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

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

2.2.2 Gluskin Sheff + Associates Inc.

Headnote

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

Applicable Legislative Provisions

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

June 19, 2019

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

AND

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

AND

IN THE MATTER OF
GLUSKIN SHEFF + ASSOCIATES INC.
(the Filer)

ORDER

Background

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

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

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 — *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Newfoundland, North West Territories and Yukon.

Interpretation

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

Representations

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

- 1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
- 2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 — *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities legislation in any jurisdiction.

Order

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

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

“Winnie Sanjoto”
Manager, Corporate Finance
Ontario Securities Commission

2.2.3 Franklin Templeton Investments Corp. et al. – ss. 78(1), 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) (the CFA) – Relief from the adviser registration requirement of paragraph 22(1)(b) of the CFA granted to sub-advisers headquartered in foreign jurisdictions in respect of advice regarding trades in commodity futures contracts and commodity futures options, subject to certain terms and conditions – Relief mirrors exemption available in section 8.26.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations made under the Securities Act (Ontario) – Relief is subject to a sunset clause.

Subsection 78(1) of the Commodity Futures Act (Ontario) – Order also revokes prior order of the Commission dated July 19, 2016, In the Matter of Franklin Templeton Investments Corp. et. al. that would otherwise have expired on July 19, 2021.

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 1(1), 22(1)(b), 78(1), and 80.

Securities Act, R.S.O. 1990, c. S.5, as am., s. 25(3).

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 8.26.1.

Ontario Securities Commission Rule 35-502 Non-Resident Advisers, s. 7.11.

Applicable Orders

In the Matter of Franklin Templeton Investments Corp. et. al., (2018) 41 OSCB 6323.

In the Matter of Franklin Templeton Investments Corp. et. al., (2016) 39 OSCB 6794.

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

AND

IN THE MATTER OF
FRANKLIN TEMPLETON INVESTMENTS CORP.,
FIDUCIARY TRUST COMPANY OF CANADA,
FRANKLIN ADVISERS, INC.,
FRANKLIN TEMPLETON INSTITUTIONAL, LLC,
FRANKLIN MUTUAL ADVISERS, LLC,
K2/D&S MANAGEMENT CO., LLC,
TEMPLETON INVESTMENT COUNSEL, LLC,
TEMPLETON GLOBAL ADVISORS LIMITED,
FRANKLIN TEMPLETON INVESTMENT MANAGEMENT LIMITED,
FRANKLIN TEMPLETON INTERNATIONAL SERVICES S.à.r.l.
AND
FRANKLIN ADVISORY SERVICES, LLC

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

UPON the application (the **Application**) of Franklin Templeton Investments Corp. (**FTIC**) and Fiduciary Trust Company of Canada (**FTCC**) (each referred to individually as a **Principal Adviser** and collectively as the **Principal Advisers**) and Franklin Advisers, Inc. (**FAI**), Franklin Templeton Institutional, LLC (**FTI LLC**), Franklin Mutual Advisers, LLC (**FMA**), K2/D&S Management Co., LLC (**K2**), Templeton Investment Counsel, LLC (**TIC**), Templeton Global Advisors Limited (**TGAL**), Franklin Templeton Investment Management Limited (**FTIML**), Franklin Templeton International Services S.à.r.l. (**FTIS**) and Franklin Advisory Services, LLC (**FASL**) (each referred to individually as a **Sub-Adviser** and collectively as the **Sub-Advisers**) to the Ontario Securities Commission (the Commission) for an order:

- (a) pursuant to subsection 78 (1) of the CFA revoking the exemption order granted by the Commission to the Principal Advisers and the Sub-Advisers, except FASL, on August 1, 2018 (the **Previous Order**); and
- (b) pursuant to section 80 of the CFA that each of the Sub-Advisers and any individuals engaging in, or holding themselves out as engaging in, the business of advising others when acting on behalf of their respective Sub-Advisers in respect of the **Sub-Advisory Services** (as defined below) (the **Representatives**) be exempt, for a

specified period of time, from the adviser registration requirements of paragraph 22(1)(b) of the CFA when acting as a sub-adviser to the Principal Advisers for the benefit of the **Clients** (as defined below) regarding commodity futures contracts and commodity futures options (collectively, the **Contracts**) traded on commodity futures exchanges and cleared through clearing corporations (the **Relief Sought**);

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

AND UPON the Principal Advisers and the Sub-Advisers having represented to the Commission that:

Principal Advisers

1. FTIC is a corporation amalgamated under the laws of Ontario, having its head office in Toronto, Ontario. FTIC is registered (a) under the securities legislation in each of the provinces of Canada and in Yukon Territory as a portfolio manager, an exempt market dealer and a mutual fund dealer; (b) under the securities legislation in Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario and Québec as an investment fund manager; and (c) under the CFA in Ontario as a commodity trading manager. In addition, FTIC is registered with the Securities and Exchange Commission of the United States of America (the **SEC**) as an investment adviser.
2. FTIC is an indirect wholly-owned subsidiary of Franklin Resources Inc. (**FRI**), a global investment management organization operating as Franklin Templeton Investments.
3. FTCC is a trust company established under the laws of Canada, having its head office in Toronto, Ontario. FTCC is registered (a) under the securities legislation in each of the provinces of Canada and in Yukon Territory as a portfolio manager; and (b) under the CFA in Ontario as a commodity trading manager.
4. FTCC and FTIC are affiliates as FTCC is a wholly-owned subsidiary of FTIC.

Sub-Advisers

5. Each Sub-Adviser is organized under the laws of a jurisdiction other than Canada or the provinces or territories thereof. In particular, the Sub-Advisers are:
 - (a) FAI, a corporation incorporated under the laws of the State of California. FAI is resident in the United States of America, with a principal office and place of business at One Franklin Parkway, San Mateo, California, USA. FAI provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) certain investment companies registered under the Investment Company Act of 1940, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as insurance companies, other financial institutions, pension and profit sharing plans, and governmental entities. FAI offers advice with respect to a broad range of securities, derivatives, and other financial instruments. FAI is registered as an investment adviser with the SEC and as a commodity pool operator with the U.S. Commodity Futures Trading Commission (**CFTC**).
 - (b) FTI LLC, a limited liability company organized and existing under the laws of the State of Delaware. FTI LLC is resident in the United States of America, with a principal office and place of business at 600 Fifth Avenue, New York, New York, USA. FTI LLC provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) certain investment companies registered under the *Investment Company Act of 1940*, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as insurance companies, pension and profit sharing plans, and governmental entities. FTI LLC offers advice with respect to a broad range of securities, derivatives, and other financial instruments. FTI LLC is registered as an investment adviser with the SEC and is exempted from registration as a commodity trading adviser and commodity pool operator with the CFTC.
 - (c) FMA, a limited liability company organized and existing under the laws of the State of Delaware. FMA is resident in the United States of America, with a principal office and place of business at 51 John F. Kennedy Parkway, Short Hills, New Jersey, USA. FMA provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) certain investment companies registered under the *Investment Company Act of 1940*, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as insurance companies. FMA offers advice with respect to a broad range of securities, derivatives, and other financial instruments. FMA is registered as an investment adviser with the SEC and is exempted from registration as a commodity trading adviser and commodity pool operator with the CFTC.
 - (d) K2, a limited liability company organized and existing under the laws of the State of Delaware. K2 is resident in the United States of America, with a principal office and place of business at 300 Atlantic Street, 12th Floor,

Stamford, Connecticut, USA. K2 provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) certain investment companies registered under the *Investment Company Act of 1940*, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as banking and thrift institutions, pension and profit sharing plans, and governmental entities. K2 offers advice with respect to a broad range of securities, derivatives, and other financial instruments. K2 is registered as an investment adviser with the SEC and is registered as a commodity trading adviser and commodity pool operator with the CFTC.

- (e) TIC, a limited liability company organized and existing under the laws of the State of Delaware. TIC is a resident of the United States of America, with a principal office and place of business at 300 Southeast 2nd Street, Fort Lauderdale, Florida, USA. TIC provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) certain investment companies registered under the *Investment Company Act of 1940*, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as insurance companies, other financial institutions, pension and profit sharing plans, and governmental entities. TIC offers advice with respect to a broad range of securities, derivatives, and other financial instruments. TIC is registered as an investment adviser with the SEC and is exempted from registration as a commodity trading adviser and commodity pool operator with the CFTC.
- (f) TGAL, a company organized and existing under the laws of the Commonwealth of the Bahamas. TGAL is resident in the Bahamas, with a principal office and place of business at Lyford Cay, Nassau, Bahamas. TGAL provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) certain investment companies registered under the *Investment Company Act of 1940*, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as insurance companies and charitable organizations. TGAL offers advice with respect to a broad range of securities, derivatives, and other financial instruments. TGAL is registered as an investment fund administrator with the Securities Commission of the Bahamas and as an investment adviser with the SEC. It is exempted from registration as a commodity trading adviser and commodity pool operator with the CFTC.
- (g) FTIML, a company organized and existing under the laws of England. FTIML is resident in England with a principal office and place of business at Cannon Place, 78 Cannon Street, London, England. FTIML provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) certain investment companies registered under the *Investment Company Act of 1940*, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as insurance companies, other financial institutions and governmental entities. FTIML offers advice with respect to a broad range of securities, derivatives and other financial instruments. FTIML is registered with the Financial Conduct Authority in the United Kingdom as an adviser. It is also registered as an investment adviser with the SEC and exempted from registration as a commodity trading adviser and commodity pool operator with the CFTC.
- (h) FTIS, an investment management company organized and existing under the laws of Luxembourg. FTIS is resident in Luxembourg, with a registered office at 8A, rue Albert Borschette, L-1246 Luxembourg, Grand-Duchy of Luxembourg. FTIS creates, promotes, administers and manages undertakings for collective investment in transferable securities (UCITS) and alternative investment funds. It also provides services such as discretionary portfolio management, investment advice, and reception and transmission of orders in relation to financial instruments. FTIS is registered with the Luxembourg Trade and Companies Register and is authorized by the Commission de Surveillance du Secteur Financier (Luxembourg) as an UCITS management company and an alternative investment fund manager. FTIS is also exempted from registration as an investment adviser with the SEC, but reports limited information to the SEC as an Exempt Reporting Adviser, pursuant to such exemption. Additionally, it is exempted from registration as a commodity trading adviser and commodity pool operator with the CFTC.
- (i) FASL, a limited liability company organized and existing under the laws of the State of Delaware. FASL is resident in the United States of America, with a registered office at One Franklin Parkway, San Mateo, CA, 94403, U.S.A. FASL provides a variety of discretionary advisory services to its clients, including, but not limited to: (i) investment companies registered under the *Investment Companies Act of 1940*, as amended; (ii) unregistered funds and other pooled investment vehicles; and (iii) institutions, such as insurance companies. FASL offers advice with respect to a broad range of securities, derivatives and other financial investments. FASL is registered as an investment adviser with the SEC and is exempted from registration as a commodity trading adviser and commodity pool operator with the CFTC.

6. Each Sub-Adviser is registered in a category of registration, or operates under an exemption from registration, under the commodity futures or other applicable legislation of its jurisdiction of residence that permits it to carry on the activities in that jurisdiction that registration as an adviser under the CFA would permit it to carry on in Ontario. As such,

each Sub-Adviser is authorized and permitted to carry on the Sub-Advisory Services (as defined below) in the jurisdiction outside of Canada in which its head office or principal place of business is located.

7. None of the Sub-Advisers is registered in any capacity under the CFA or the *Securities Act* (Ontario) (the **OSA**), nor are any of the Sub-Advisers registered in any capacity under the securities law, commodity futures law, or derivatives law of any other jurisdiction of Canada.
8. Each of the Sub-Advisers acts in reliance on the exemption from the requirement to register as an adviser under the OSA pursuant to section 8.26.1 "International sub-adviser" of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).
9. The following Sub-Advisers are also relying on the exemption from the requirement to register as an adviser under the OSA pursuant to section 8.26 "International adviser" of NI 31-103 (the OSA International Adviser Exemption): FAI, FTI LLC, FTIML and FASL. FTIS is relying on the exemption from the requirement to register as an investment fund manager under the OSA pursuant to Multilateral Instrument 32-102 *Registration Exemptions for Non-Resident Investment Fund Managers*. All other Sub-Advisers are not currently relying on any exemptions from the requirement to register under securities law, commodity futures law or derivatives law of any jurisdiction of Canada (except as identified in paragraph 8 above).
10. Each Sub-Adviser engages in the business of an adviser in respect of Contracts in its principal jurisdiction.
11. None of the Sub-Advisers is a resident of any province or territory of Canada.
12. The Sub-Advisers and the Principal Advisers are affiliates, as defined in the OSA. Each of the Sub-Advisers and Principal Advisers are directly or indirectly wholly-owned by their parent company, FRI.
13. None of the Principal Advisers or the Sub-Advisers is in default of securities legislation, commodity futures legislation or derivatives legislation in any jurisdiction of Canada.
14. Each Sub-Adviser is in compliance in all material respects with the securities laws, commodity futures laws and derivatives laws in each jurisdiction outside of Canada in which its head office or principal place of business is located.
15. The Principal Advisers provide, or may provide, discretionary and/or non-discretionary portfolio management services in Ontario to the following clients (each referred to individually as a **Client** and collectively as the **Clients**):
 - (a) investment funds, the securities of which are qualified by prospectus for distribution to the public in Ontario and the other provinces and territories of Canada (the **Investment Funds**);
 - (b) pooled funds, the securities of which are sold on a private placement basis in Ontario and certain other provinces and territories of Canada pursuant to prospectus exemptions contained in National Instrument 45-106 *Prospectus Exemptions* (the **Pooled Funds**);
 - (c) clients who have entered into investment management agreements with a Principal Adviser to establish managed accounts (the **Managed Account Clients**); and
 - (d) other Investment Funds, Pooled Funds and Managed Account Clients that may be established or retained in the future in respect of which a Principal Adviser will engage a Sub-Adviser to provide portfolio advisory services (the **Future Clients**).
16. Certain of the Clients may, as part of their investment program, invest in Contracts. The Principal Adviser acts as a commodity trading manager in respect of certain Clients.
17. In connection with the Principal Advisers acting as advisers to Clients in respect of the purchase or sale of Contracts, each Principal Adviser, pursuant to a written agreement made between the Principal Adviser and each respective Sub-Adviser, has retained (or will retain) the respective Sub-Adviser to act as a sub-adviser to the Principal Adviser in respect of Contracts in which that Sub-Adviser has experience and expertise by exercising discretionary investment authority on behalf of the Principal Adviser, in respect of all or a portion of the assets of the investment portfolio of the respective Client, including discretionary authority to buy or sell Contracts for the Client (the **Sub-Advisory Services**), provided that such investments are consistent with the investment objectives and strategies of the applicable Client.
18. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative or as a partner or an officer of a registered adviser and is acting on behalf of such registered adviser.

19. By providing the Sub-Advisory Services, each Sub-Adviser and its Representatives will be engaging in, or holding themselves out as engaging in, the business of advising others in respect of Contracts and, in the absence of being granted the Relief Sought, would be required to register as an adviser or a representative of an adviser, as the case may be, under the CFA.
20. There is presently no rule or regulation under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1) (b) of the CFA that is similar to the exemption from the adviser registration requirement in subsection 25(3) of the OSA provided under section 8.26.1 of NI 31-103.
21. The relationship among any Principal Adviser, any Sub-Adviser and any Client is, and will be, consistent with the requirements of section 8.26.1 of NI 31-103.
22. A Sub-Adviser will only provide the Sub-Advisory Services to a Principal Adviser as long as that Principal Adviser is, and remains, registered under the CFA as an adviser in the category of commodity trading manager.
23. As would be required under section 8.26.1 of NI 31-103:
 - (a) the obligations and duties of each Sub-Adviser are, or will be, set out in a written agreement with the relevant Principal Adviser or Principal Advisers; and
 - (b) the relevant Principal Adviser or Principal Advisers have entered into, or will enter into, a written contract with each Client, agreeing to be responsible for any loss that arises out of the failure of any Sub-Adviser:
 - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and each Client; or
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**).
24. The written agreement between a Principal Adviser and each Sub-Adviser sets out, or will set out, the obligations and duties of each party in connection with the Sub-Advisory Services and permits, or will permit, the Principal Adviser to exercise the degree of supervision and control it is required to exercise over the applicable Sub-Adviser in respect of the Sub-Advisory Services.
25. The Principal Advisers will deliver to the Clients all required reports and statements under applicable securities, commodity futures and derivatives legislation.
26. The prospectus or other offering document (in either case, the **Offering Document**) of each Client that is an Investment Fund or a Pooled Fund and for which a Principal Adviser engages one or more Sub-Advisers to provide the Sub-Advisory Services includes, or will include, the following disclosure (the **Required Disclosure**):
 - (a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of any Sub-Adviser to meet the Assumed Obligations; and
 - (b) a statement that there may be difficulty in enforcing any legal rights against the Sub-Advisers (or any of their Representatives) because the Sub-Advisers are resident outside of Canada and all or substantially all of their assets are situated outside of Canada.
27. Prior to purchasing any securities of one or more of the Clients that are Investment Funds or Pooled Funds directly from a Principal Adviser, all investors in the Investment Funds or Pooled Funds who are Ontario residents will receive, or have received, the Required Disclosure in writing (which may be in the form of an Offering Document).
28. Each Client that is a Managed Account Client for which a Principal Adviser engages one or more Sub-Advisers to provide the Sub-Advisory Services will receive, or has received, the Required Disclosure in writing prior to the purchasing of any Contracts for such Client.
29. The Principal Advisers and the Sub-Advisers obtained substantially similar relief in the Previous Order, pursuant to which the Sub-Advisers, with the exception of FASL, currently provide Sub-Advisory Services to the Principal Advisers for the benefit of the Clients. The Relief Sought will add FASL as a Sub-Adviser.
30. Each Principal Adviser and Sub-Adviser that is subject to the Previous Order (i.e., all Filers other than FASL), have complied with, and are currently in compliance with, all of the terms and conditions of the Previous Order.

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

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

AND IT IS ORDERED, pursuant to section 80 of the CFA, that each Sub-Adviser and its Representatives is exempt from the adviser registration requirements of paragraph 22(1)(b) of the CFA when acting as a sub-adviser to a Principal Adviser in respect of the Sub-Advisory Services, provided that at the time that such activities are engaged in:

- (a) the Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
- (b) the Sub-Adviser's head office or principal place of business is in a jurisdiction outside of Canada;
- (c) the Sub-Adviser is registered in a category of registration, or operates under an exemption from registration, under the commodity futures or other applicable legislation of the jurisdiction outside of Canada in which its head office or principal place of business is located, that permits it to carry on the activities in that jurisdiction that registration as an adviser under the CFA would permit it to carry on in Ontario;
- (d) the Sub-Adviser engages in the business of an adviser in respect of Contracts in the jurisdiction outside of Canada in which its head office or principal place of business is located;
- (e) the obligations and duties of the Sub-Adviser are set out in a written agreement with the Principal Adviser;
- (f) the Principal Adviser has entered into a written agreement with each Client, agreeing to be responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations;
- (g) the Offering Document of each Client that is an Investment Fund or a Pooled Fund and for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services includes the Required Disclosure;
- (h) prior to purchasing any securities of a Client that is an Investment Fund or a Pooled Fund directly from the Principal Adviser, each investor in any of these Investment Funds or Pooled Funds who was or is an Ontario resident received, or will receive, the Required Disclosure in writing; and
- (i) each Client that is a Managed Account Client for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services received, or will receive, the Required Disclosure in writing prior to the purchasing of any Contracts for such Client;

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

- (a) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;
- (b) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the ability of any Sub-Adviser to act as a sub-adviser to the Principal Advisers in respect of the Sub-Advisory Services; and
- (c) five years after the date of this Order.

DATED at Toronto, Ontario, this **14th** day of **June**, 2019.

"Mary Anne DeMonte-Whelan"
Vice-Chair or Commissioner
Ontario Securities Commission

"Poonam Puri"
Vice-Chair or Commissioner
Ontario Securities Commission

2.2.4 Global Resource Champions Split Corp.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application for an order that the issuer is not a reporting issuer under applicable securities laws – relief granted.

Applicable Legislative Provisions

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

June 20, 2019

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

AND

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

AND

**IN THE MATTER OF
GLOBAL RESOURCE CHAMPIONS SPLIT CORP.
(the Filer)**

ORDER

Background

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

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

1. the Ontario Securities Commission is the principal regulator for this application, and
2. the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland.

Interpretation

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

Representations

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

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities legislation in any jurisdiction.

Order

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

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

“Darren McKall”

Manager

Investment Funds and Structured Products Branch
Ontario Securities Commission

2.2.5 Issam El-Bouji

FILE NO.: 2018-28

**IN THE MATTER OF
ISSAM EL-BOUJI**

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

June 21, 2019

ORDER

WHEREAS on June 21, 2019, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider a motion brought by the Respondent, Issam El-Bouji, seeking, among other things, an order that the Commission adjourn these proceedings and the motion scheduled to be heard on July 16 and 17, 2019;

ON HEARING the submissions of the representatives for the Respondent and Staff of the Commission;

IT IS ORDERED THAT:

1. the Respondent's adjournment motion is dismissed; and
2. the Affidavit of Bethanie Pascutto sworn May 31, 2019 and the exhibits attached thereto are confidential pursuant to Rule 22(3)(b) of the *Ontario Securities Commission Rules of Procedure and Forms* (2017), 40 OSCB 8988.

"D. Grant Vingoe"

2.2.6 Starlight U.S. Multi-Family (No. 5) Core Fund

Headnote

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

Applicable Legislative Provisions

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

June 21, 2019

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

AND

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

AND

**IN THE MATTER OF
STARLIGHT U.S. MULTI-FAMILY (NO. 5) CORE FUND
(the "Filer")**

ORDER

Background

The principal regulator in the Jurisdiction has received an application from the Filer for an order under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the "**Order Sought**").

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

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

Interpretation

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

Representations

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

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions of Canada and fewer than 51 security holders in total worldwide;
3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities legislation in any jurisdiction.

Order

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

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

“Winnie Sanjoto”
Manager, Corporate Finance
Ontario Securities Commission

2.2.7 First Global Data Ltd. et al. – ss. 127, 127.1

FILE NO.: 2019-22

**IN THE MATTER OF
FIRST GLOBAL DATA LTD.,
GLOBAL BIOENERGY RESOURCES INC.,
NAYEEM ALLI,
MAURICE AZIZ,
HARISH BAJAJ, and
ANDRE ITWARU**

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

June 25, 2019

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

WHEREAS on June 24, 2019, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario for the first attendance in this proceeding;

ON HEARING the oral submissions of the representatives for Staff of the Commission (**Staff**) and for each of the Respondents;

IT IS ORDERED THAT:

1. By no later than July 24, 2019, Staff shall disclose to each Respondent the non-privileged relevant documents and things in the possession or control of Staff;
2. By no later than October 9, 2019, the Respondents shall serve and file their motions, if any, regarding Staff's disclosure or seeking disclosure of additional documents;
3. By no later than October 15, 2019, Staff shall:
 - a. file and serve a witness list on each Respondent,
 - b. serve a summary of each witness's anticipated evidence on each Respondent, and
 - c. indicate any intention to call an expert witness, including providing the expert's name and the issues on which the expert will give evidence; and
4. The second attendance in this matter is scheduled for October 22, 2019 at 10:00 a.m., or on such other date or time as may be agreed to by the parties and set by the Office of the Secretary.

“D. Grant Vingoe”

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.	03 May 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:

Canoe U.S. Equity Income Portfolio Class (to be renamed Canoe Defensive U.S. Equity Portfolio Class)
(consisting of Canoe U.S. Equity Income Class (to be renamed Canoe Defensive U.S. Equity Class))
Principal Regulator - Alberta (ASC)

Type and Date:

Amendment #4 to Final Simplified Prospectus dated June 20, 2019

Received on June 20, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Canoe Financial Corp.
Canoe Financial LP

Project #2797142

Issuer Name:

Counsel Balanced Growth Portfolio
Counsel Income Portfolio
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated June 17, 2019

Received on June 18, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2818942

Issuer Name:

PIMCO Global Short Maturity Fund (Canada)
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated June 18, 2019

Received on June 18, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

PIMCO Canada Corp.

Project #2866025

Issuer Name:

RP Strategic Income Plus Fund
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated June 21, 2019

Received on June 24, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

RP Investment Advisors LP

Project #2855885

Issuer Name:

BetaPro NASDAQ-100® -2x Daily Bear ETF
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Long Form Prospectus dated June 12, 2019

NP 11-202 Receipt dated June 18, 2019

Offering Price and Description:

Class A Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Horizons ETFs Management (Canada) Inc.

Project #2785476

Issuer Name:

Counsel Balanced Growth Portfolio
Counsel Income Portfolio
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated June 17, 2019

NP 11-202 Receipt dated June 24, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2818942

Issuer Name:

Emerge ARK AI & Big Data ETF (formerly, Emerge ARK Artificial Intelligence ETF)
Emerge ARK Autonomous Tech & Robotics ETF (formerly, Emerge ARK Autonomous Technology ETF)
Emerge ARK Genomics & Biotech ETF (formerly, Emerge ARK Genomic Revolution ETF)
Emerge ARK Global Disruptive Innovation ETF
Emerge ARK Israel Innovative Technology Index ETF
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated June 18, 2019
NP 11-202 Receipt dated June 19, 2019

Offering Price and Description:

CAD Units and USD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Emerge Canada Inc.

Project #2873690

Issuer Name:

Emerge ARK Israel Innovative Technology Index ETF
Principal Jurisdiction - Ontario

Type and Date:

Preliminary Long Form Prospectus dated February 13, 2019

Withdrawn on June 19, 2019

Offering Price and Description:

CAD Units and USD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Emerge Canada Inc.

Project #2873690

Issuer Name:

iShares Edge MSCI USA Momentum Factor Index ETF
iShares Edge MSCI USA Quality Factor Index ETF
iShares Edge MSCI USA Value Factor Index ETF
iShares S&P U.S. Small-Cap Index ETF
iShares S&P U.S. Small-Cap Index ETF (CAD-Hedged)
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Jun 21, 2019
NP 11-202 Preliminary Receipt dated Jun 24, 2019

Offering Price and Description:

Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2932802

Issuer Name:

CI High Interest Savings Fund
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus, Annual Information Form and Fund Facts (NI 81-101) dated Jun 20, 2019
NP 11-202 Preliminary Receipt dated Jun 20, 2019

Offering Price and Description:

Series A units, Series O units, Series I units, Series F units, Series E units, Series P units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2932304

Issuer Name:

Emerge ARK Fintech Innovation ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Jun 18, 2019
NP 11-202 Final Receipt dated Jun 19, 2019

Offering Price and Description:

USD Units

CAD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2916546

NON-INVESTMENT FUNDS

Issuer Name:

Canoe U.S. Equity Income Portfolio Class (to be renamed Canoe Defensive U.S. Equity Portfolio Class)
(consisting of Canoe U.S. Equity Income Class (to be renamed Canoe Defensive U.S. Equity Class))
Principal Regulator - Alberta (ASC)

Type and Date:

Amendment #4 to Final Simplified Prospectus dated June 20, 2019

Received on June 20, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Canoe Financial Corp.

Canoe Financial LP

Project #2797142

Issuer Name:

Counsel Balanced Growth Portfolio

Counsel Income Portfolio

Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated June 17, 2019

Received on June 18, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2818942

Issuer Name:

PIMCO Global Short Maturity Fund (Canada)

Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated June 18, 2019

Received on June 18, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

PIMCO Canada Corp.

Project #2866025

Issuer Name:

RP Strategic Income Plus Fund

Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated June 21, 2019

Received on June 24, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

RP Investment Advisors LP

Project #2855885

Issuer Name:

BetaPro NASDAQ-100® -2x Daily Bear ETF

Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Long Form Prospectus dated June 12, 2019

NP 11-202 Receipt dated June 18, 2019

Offering Price and Description:

Class A Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Horizons ETFs Management (Canada) Inc.

Project #2785476

Issuer Name:

Counsel Balanced Growth Portfolio

Counsel Income Portfolio

Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated June 17, 2019

NP 11-202 Receipt dated June 24, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2818942

Issuer Name:

Emerge ARK AI & Big Data ETF (formerly, EmERGE ARK Artificial Intelligence ETF)
Emerge ARK Autonomous Tech & Robotics ETF (formerly, EmERGE ARK Autonomous Technology ETF)
Emerge ARK Genomics & Biotech ETF (formerly, EmERGE ARK Genomic Revolution ETF)
Emerge ARK Global Disruptive Innovation ETF
Emerge ARK Israel Innovative Technology Index ETF
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated June 18, 2019
NP 11-202 Receipt dated June 19, 2019

Offering Price and Description:

CAD Units and USD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

EmERGE Canada Inc.

Project #2873690

Issuer Name:

Emerge ARK Israel Innovative Technology Index ETF
Principal Jurisdiction - Ontario

Type and Date:

Preliminary Long Form Prospectus dated February 13, 2019

Withdrawn on June 19, 2019

Offering Price and Description:

CAD Units and USD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

EmERGE Canada Inc.

Project #2873690

Issuer Name:

iShares Edge MSCI USA Momentum Factor Index ETF
iShares Edge MSCI USA Quality Factor Index ETF
iShares Edge MSCI USA Value Factor Index ETF
iShares S&P U.S. Small-Cap Index ETF
iShares S&P U.S. Small-Cap Index ETF (CAD-Hedged)
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Jun 21, 2019
NP 11-202 Preliminary Receipt dated Jun 24, 2019

Offering Price and Description:

Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2932802

Issuer Name:

CI High Interest Savings Fund
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus, Annual Information Form and Fund Facts (NI 81-101) dated Jun 20, 2019
NP 11-202 Preliminary Receipt dated Jun 20, 2019

Offering Price and Description:

Series A units, Series O units, Series I units, Series F units, Series E units, Series P units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2932304

Issuer Name:

Emerge ARK Fintech Innovation ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Jun 18, 2019
NP 11-202 Final Receipt dated Jun 19, 2019

Offering Price and Description:

USD Units

CAD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2916546

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New registration	Digimax Capital Corp.	Exempt Market Dealer	June 18, 2019
New registration	Belay Wealth Inc.	Mutual Fund Dealer	June 20, 2019
Name change	From: Cygnus Investment Partners LP To: OCP Fund Management LP	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	June 11, 2019

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