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The Ontario Securities Commission

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Chapter 1

Notices

THERE IS NO MATERIAL FOR THIS CHAPTER IN THIS ISSUE

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Franklin Templeton Investments Corp. et al.

Headnote

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

Applicable Legislative Provisions

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

November 12, 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
FRANKLIN TEMPLETON INVESTMENTS CORP.
(the Filer)

AND

FRANKLIN FTSE CANADA ALL CAP INDEX ETF
FRANKLIN FTSE U.S. INDEX ETF
FRANKLIN FTSE EUROPE EX U.K. INDEX ETF
FRANKLIN FTSE JAPAN INDEX ETF
(the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limits for the renewal of the long form prospectus of the Funds dated February 1, 2019

(the **Current Prospectus**) be extended to those time limits that would be applicable as if the lapse date of the Current Prospectus was April 1, 2020 (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 each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. Each Fund is an exchange traded fund established as a trust under the laws of Ontario pursuant to a master declaration of trust dated April 18, 2017, as amended and restated as of November 8, 2017, as amended.
2. Each Fund is a reporting issuer as defined in the securities legislation of each of the Jurisdictions.
3. Each Fund currently distributes its securities in the Jurisdictions on a continuous basis pursuant to a long form prospectus dated February 1, 2019, as amended by amendment no. 1 dated February 19, 2019 (collectively, the **Current Prospectus**).
4. Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the “**Act**”), the lapse date of the Current Prospectus is February 1, 2020 (the **Current Lapse Date**).
5. Pursuant to subsection 62(2) of the Act, the distribution of securities of each of the Funds would have to cease on the Current Lapse Date unless: (i) the Funds

- file a *pro forma* prospectus at least 30 days prior to the Current Lapse Date; (ii) the final prospectus is filed no later than 10 days after the Current Lapse Date; and (iii) a receipt for the final prospectus is obtained within 20 days after the Current Lapse Date.
6. The Filer is a corporation amalgamated under the laws of Ontario and is the trustee and manager of the Funds. The Filer's head office is in Toronto, Canada.
 7. The Filer is registered as an investment fund manager in Ontario, Quebec, Alberta, British Columbia, Manitoba, Nova Scotia, and Newfoundland and Labrador, as a mutual fund dealer, portfolio manager and exempt market dealer in each province of Canada and the Yukon, and as a commodity trading manager in Ontario.
 8. The Filer is also the manager of 10 other exchange traded funds as listed in Schedule "A" (collectively, the **Other Funds**), that are currently offered in each of the provinces and territories of Canada under a long form prospectus with a lapse date of April 1, 2020 (the **Other Funds' Prospectus**).
 9. Neither the Filer nor any of the Funds is in default of securities legislation in any of the Jurisdictions.
 10. The Filer wishes to combine the prospectus of the Funds with the prospectus of the Other Funds in order to reduce the cost of renewing the prospectus of the Funds and on-going printing and related costs. Offering the Funds and the Other Funds under one prospectus would facilitate the distribution of such funds in the Jurisdictions under the same prospectus and enable the Filer to streamline disclosure across the Filer's fund platform. As the Funds and the Other Funds are managed by the Filer, offering them under the same prospectus would allow investors to more easily compare their features.
 11. It would be impractical to alter and modify all the dedicated systems, procedures and resources required to prepare the renewal simplified prospectus, annual information form and ETF facts documents (collectively, the **Renewal Documents**) of the Other Funds, and unreasonable to incur the costs and expenses associated therewith, so that the Renewal Documents of the Other Funds can be filed earlier with the Renewal Documents of the Funds.
 12. The Filer may make minor changes to the features of the Other Funds as part of the process of renewing the Other Funds Prospectus. The ability to file the simplified prospectus of the Funds with those of the Other Funds will ensure that the Filer can make the operational and administrative features of the Funds and the Other Funds consistent with each other, if necessary.
 13. If the Exemption Sought is not granted, it will be necessary to renew the Renewal Documents of the Funds twice within a short period of time in order to consolidate the simplified prospectus of the Funds with the simplified prospectus of the Other Funds.
 14. There have been no material changes in the affairs of the Funds since the date of the Current Prospectus, other than those for which amendments have been filed. Accordingly, the Current Prospectus represents current information of such Funds. In addition, the most recently filed ETF facts of the Funds provides even more current information to investors regarding the Funds.
 15. Given the disclosure obligations of the Funds, should any material change in the affairs of any of the Funds occur, the Current Prospectus and current ETF facts document of the applicable Fund(s) will be amended as required under the Legislation.
 16. New investors of the Funds will receive delivery of the most recently filed ETF facts documents of the applicable Fund(s). The Current Prospectus will still be available upon request.
 17. The Exemption Sought will not affect the accuracy of the information contained in the Current Prospectus or the respective ETF facts documents and therefore will 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 McCall”
Manager,
Investment Funds and Structured Products Branch
Ontario Securities Commission

SCHEDULE “A”

THE OTHER FUNDS

Franklin LibertyQT U.S. Equity Index ETF
Franklin LibertyQT International Equity Index ETF
Franklin LibertyQT Global Dividend Index ETF
Franklin LibertyQT Emerging Markets Index ETF
Franklin Liberty Canadian Investment Grade Corporate
ETF
Franklin Liberty Core Balanced ETF
Franklin Liberty Risk Managed Canadian Equity ETF
Franklin Liberty Global Aggregate Bond ETF (CAD-
Hedged)
Franklin Liberty Senior Loan ETF (CAD-Hedged)
Franklin Liberty U.S. Investment Grade Corporate ETF
(CAD-Hedged)

2.1.2 Vision Capital Corporation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from section 13.5(2)(b) of NI 31-103 to permit inter-fund trading between certain public funds, pooled funds and managed accounts managed by the same manager subject to conditions, including IRC approval and pricing requirements – certain trades involving exchange-traded securities permitted to occur at last sale price as defined in the Universal Market Integrity Rules – relief also granted from conflict of interest trading prohibition in section 13.5(2)(b) to permit in-specie purchases and redemptions by managed accounts and pooled funds subject to conditions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.5 and 15.1.

July 29, 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
VISION CAPITAL CORPORATION
(Filer)

DECISION

Background

1. The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for a decision (the **Exemption Sought**) pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) exempting the Filer from the prohibitions in paragraph 13.5(2)(b) of NI 31-103 (the **Trading Prohibition**) which prohibit a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of an associate of a responsible person, or from or to the investment

portfolio of an investment fund for which a responsible person acts as an adviser, in order to permit,

- (a) an NI 81-102 Fund (as defined below) to purchase securities from, or sell securities to, a Pooled Fund (as defined below);
- (b) a Pooled Fund to purchase securities from, or sell securities to, a Fund (as defined below);
- (c) a Managed Account (as defined below) to purchase securities from, or sell securities to, a Fund,

the transactions listed in (a) to (c) above, in the case of exchange-traded securities, to be executed at the Last Sale Price (as defined below) in lieu of the Closing Sale Price (as defined below); and

- (d) an NI 81-102 Fund to purchase exchange-traded securities from or sell exchange-traded securities to another NI 81-102 Fund at the Last Sale Price in lieu of the Closing Sale Price

(the transactions described in (a) through (d) above being referred to herein as the **Inter-Fund Trades** and the requested relief as the **Inter Fund Trading Relief**); and

- (e) the purchase by a Managed Account or Pooled Fund of securities of a Fund, and the redemption of securities of a Fund held by a Managed Account or Pooled Fund, and as payment:
 - (i) for such purchase, in whole or in part, by the Managed Account or Pooled Fund making good delivery of portfolio securities to the other Fund; and
 - (ii) for such redemption, in whole or in part, by the Managed Account or Pooled Fund receiving good delivery of portfolio securities from the other Fund

(a purchase or redemption described in paragraph (e) above being referred to herein as an **In Specie Transaction**).

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

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

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

Interpretation

Terms defined in the Legislation, MI 11-102, National Instrument 14-101 *Definitions*, NI 31-103, National Instrument 81-102 *Investment Funds (NI 81-102)*, National Instrument 81-106 *Investment Fund Continuous Disclosure* or National Instrument 81-107 *Independent Review Committee for Investment Funds (NI 81-107)* have the same meanings in this decision, unless otherwise defined. In addition:

“Closing Sale Price” means the closing sale price contemplated by the definition of “current market price of the security” in subparagraph 6.1(1)(a)(i) of NI 81-107 on that trading day;

“Fund” means an NI 81-102 Fund or a Pooled Fund;

“Last Sale Price” means the last sale price, as defined in the Market Integrity Rules of the Investment Industry Regulatory Organization of Canada, prior to the execution of the trade on that trading day where the securities involved in the Inter-Fund Trade are exchange-traded securities (which term shall include Canadian and foreign exchange-traded securities);

“Managed Account” means an existing or future account over which the Filer has discretionary authority for a client and acts as the portfolio manager;

“NI 81-102 Fund” means an existing or future investment fund, as defined in the Legislation, which may be either a mutual fund or a non-redeemable investment fund that is a reporting issuer and subject to NI 81-102 and NI 81-107, for which the Filer acts or will act as the investment fund manager and acts or may act as the portfolio manager in the future; and

“Pooled Fund” means an existing or future investment fund for which the Filer acts or will act as the investment fund manager and acts or may act as the portfolio manager and to which neither NI 81-102 nor NI 81-107 apply.

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 registered head office located in Toronto, Ontario.

2. The Filer currently is registered as:
- (a) an exempt market dealer, a portfolio manager and investment fund manager under the securities legislation of Alberta, British Columbia, Manitoba, and Ontario;
 - (b) an investment fund manager and exempt market dealer under the securities legislation of Quebec; and
 - (c) investment fund manager in Newfoundland and Labrador.
3. The Filer has or will have complete discretion to invest and reinvest the assets of the Funds and Managed Accounts and is or will be responsible for executing all portfolio transactions. Furthermore, the Filer, subject to compliance with applicable securities laws, may act as a distributor of securities of the Pooled Funds not otherwise sold through another registered dealer.
4. The Filer:
- (a) acts or may act as the trustee of each Fund that is a trust;
 - (b) acts or will act as the investment fund manager of each Fund;
 - (c) acts or may act as the portfolio manager to each Fund; and
 - (d) acts or will act as the portfolio manager to each Managed Account.
5. The Filer is not in default of the securities legislation of any Jurisdiction.

Funds

6. Each Fund is, or will be, an investment fund that is either a trust established, or limited partnership formed, under the laws of Ontario or another Jurisdiction.
7. Each Fund’s reliance on the Exemption Sought will be compatible with its investment objective and strategies.
8. Each NI 81-102 Fund is, or will be, a reporting issuer under the securities legislation of one or more Jurisdictions and whose securities are, or will be, qualified for distribution pursuant to a prospectus and, if applicable, annual information form and fund facts that have been, or will be, prepared and filed in accordance with the securities legislation of those Jurisdictions.
9. The securities of each Pooled Fund are, or will be, distributed on a private placement basis pursuant to the securities legislation of the Jurisdictions and no Pooled Fund is, or will be, a reporting issuer under the securities legislation of any Jurisdiction.

Decisions, Orders and Rulings

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| 10. | An affiliate of the Filer acts or will act as the general partner of each Fund structured as a limited partnership. | (a) | an NI 81-102 Fund and another NI 81-102 Fund, a Pooled Fund or a Managed Account; |
| 11. | Each Fund for which the Filer acts or will act as trustee is, or will be, an associate of the Filer. | (b) | a Pooled Fund and another Pooled Fund, an NI 81-102 Fund or a Managed Account; and |
| 12. | Each existing Fund is not in default of the securities legislation of any Jurisdiction. | (c) | a Managed Account and a Pooled Fund or an NI 81-102 Fund. |

Managed Accounts

- | | | | |
|-----|---|-----|---|
| 13. | Each Managed Account is, or will be, managed pursuant to an investment management agreement or other documentation which is, or will be, executed by each client who wishes to receive the portfolio management services of the Filer and which provides the Filer full discretionary authority to trade in securities for the Managed Account without obtaining the specific consent of the client to execute the trade. | 19. | Different sections of NI 31-103, NI 81-102 and NI 81-107 impose different prohibitions and exceptions on different types of Funds with respect to Inter-Fund Trades. |
| 14. | The investment management agreement or other documentation in respect of each Managed Account contains, or will contain, authorization from the client for the Filer to make Inter-Fund Trades and/or enter into In Specie Transactions. | 20. | The Filer has submitted that because of the various investment objectives and investment strategies utilized by the Funds and Managed Accounts, it may be appropriate for different investment portfolios to acquire or dispose of the same securities directly, rather than with a third party. Authorizing the Inter-Fund Trades may result in such benefits as lower trading costs, reduced market disruption and quicker execution. |
| | | 21. | The Filer has determined that it would be in the best interests of the Funds and Managed Accounts to receive the Inter-Fund Trading Relief because making the Funds and Managed Accounts subject to the same set of rules governing the execution of Inter-Fund Trades will result in: |

Independent Review Committee

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|-----|---|-----|---|
| 15. | Each NI 81-102 Fund has, or will have, an independent review committee (an IRC) in accordance with the requirements of NI 81-107. Each Inter-Fund Trade by an NI 81-102 Fund will be authorized by the IRC of the NI 81-102 Fund under section 5.2 of NI 81-107, and the Filer will comply with section 5.4 of NI 81-107 in respect of any standing instructions the IRC provides in connection with such Inter-Fund Trade. | (a) | a consistent and fair result for all the Filer's clients; |
| 16. | Though the Pooled Funds are not, and will not be, subject to the requirements of NI 81-107, each Pooled Fund will have an IRC at the time the Pooled Fund makes an Inter-Fund Trade. The mandate of the IRC of each Pooled Fund will include approving Inter-Fund Trades. The IRC of the Pooled Funds will be composed by the Filer in accordance with section 3.7 of NI 81-107 and the IRC will be expected to comply with the standard of care set out in section 3.9 of NI 81-107. | (b) | cost and timing efficiencies in respect of the execution of Inter-Fund Trades; and |
| 17. | If the IRC of a Pooled Fund becomes aware of an instance where the Filer did not comply with the terms of this decision or a condition imposed by securities legislation or the IRC in its approval, the IRC of the Pooled Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the Jurisdiction under which the Pooled Fund is organized. | (c) | simplified and more efficient monitoring thereof, for the Filer in connection with the execution of Inter-Fund Trades. |
| | | 22. | Each Inter-Fund Trade will be consistent with the investment objectives of the relevant Fund or Managed Account, as applicable. |
| | | 23. | At the time of an Inter-Fund Trade, the Filer will have policies and procedures in place to enable the applicable Funds and Managed Accounts to engage in Inter-Fund Trades. |
| | | 24. | The Filer cannot rely on the exemption codified under subsection 6.1(4) of NI 81-107 unless each party to the transaction is a reporting issuer and the Inter-Fund Trade occurs at the " <i>current market price of the security</i> " which, in the case of exchange-traded securities, includes the Closing Sale Price but not the Last Sale Price. |

Inter-Fund Trades

- | | | | |
|-----|---|-----|--|
| 18. | The Filer wishes to be able to permit Inter-Fund Trades of portfolio securities at the Last Sale Price between: | 25. | The Filer considers that it would be in the best interests of the Funds and Managed Accounts, as applicable, if an Inter-Fund Trade could be made at the Last Sale Price prior to the execution of the |
|-----|---|-----|--|

trade, in lieu of the Closing Sale Price, as this will result in the trade being done at the price which is closest to the price at the time the decision to make the trade is made.

26. An Inter-Fund Trade to be effected at the Last Sale Price will be implemented by the Filer as follows:

- (a) the Filer, as the portfolio manager, will deliver the trade instruction in respect of a purchase or sale of a portfolio security by a Fund or a Managed Account, as applicable (**Party A**), to a trader on the Filer's trading desk;
- (b) the Filer, as the portfolio manager, will deliver the trade instruction in respect of a purchase or sale of a portfolio security by a Managed Account or another Fund, as applicable (**Party B**), to a trader on the Filer's trading desk;
- (c) the trader on the Filer's trading desk will have the discretion to execute the trade as an Inter-Fund Trade between Party A and Party B at the Last Sale Price of the portfolio security, prior to the execution of the trade;
- (d) the policies applicable to the Filer's trading desk will require that all orders are to be executed on a timely basis; and
- (e) the trader on the Filer's trading desk will advise of the Last Sale Price.

In Specie Transactions

27. When acting for a Managed Account of a client, the Filer wishes to be able, in accordance with the investment objectives and restrictions of the client, to cause the client's Managed Account to either invest in securities of a Fund, or to redeem such securities, pursuant to an In Specie Transaction.

28. In acting on behalf of a Pooled Fund, the Filer wishes to be able, in accordance with the investment objectives and restrictions of the Pooled Fund, to cause the Pooled Fund to either invest in securities of another Fund, or to redeem such securities, pursuant to an In Specie Transaction.

29. The Filer has determined that effecting the In Specie Transactions will allow the Filer to manage each asset class more effectively and reduce transaction costs for the client, as applicable, and the Funds. For example, In Specie Transactions may:

- (a) reduce market impact costs, which can be detrimental to clients and/or the Funds

- (b) allow a portfolio manager to retain within its control institutional-size blocks of securities that otherwise would need to be broken and re-assembled.

30. The only cost which will be incurred by a Fund or a Managed Account for an In Specie Transaction is a nominal administrative charge levied by the custodian of the Fund in recording the trades and/or any commission charged by the dealer executing the trade.

31. At the time of each In Specie Transaction, the Filer will have in place policies and procedures governing such transactions, including the following:

- (a) each In Specie Transaction involving an NI 81-102 Fund will be referred to its IRC for approval in accordance with the requirements of subsection 5.2(2) of NI 81-107;
- (b) the Filer has obtained, or will obtain, the written consent of the relevant client before it engages in any In Specie Transaction in connection with the purchase or redemption of securities of a Fund for the Managed Account;
- (c) the portfolio securities transferred in an In Specie Transaction will be consistent with the investment criteria of the Fund or Managed Account acquiring the portfolio securities;
- (d) the portfolio securities transferred in In Specie Transactions will be valued on the same valuation day using the same valuation principles as are used to calculate the net asset value for the issue price or redemption price of securities of the Fund;
- (e) with respect to the purchase of securities of a Fund, the portfolio securities transferred to the Fund in an In Specie Transaction as purchase consideration for those securities will be valued as if the portfolio securities were assets of the Fund and in accordance with subparagraph 9.4(2)(b)(iii) of NI 81-102;
- (f) with respect to the redemption of securities of a Fund, the portfolio securities transferred in consideration for the redemption price of those securities will have a value at least equal to the amount at which those portfolio securities were valued in calculating the net asset value per security used to establish the redemption price of the securities in accordance with paragraph 10.4(3)(b) of NI 81-102;

- (g) the valuation of any illiquid securities which would be the subject of an In Specie Transaction will be carried out according to the Filer's policies and procedures for the fair valuation of portfolio securities, including illiquid securities. Should any In Specie Transaction involve the transfer of an "illiquid asset" (as defined in NI 81-102), the Filer will obtain at least one quote for the asset from an independent arm's length purchaser or seller, immediately before effecting the In Specie Transaction;
 - (h) if any illiquid securities are the subject of an In Specie Transaction, the illiquid securities will be transferred on a basis, whether pro rata or otherwise, that fairly represents the portfolio of the Managed Account or Pooled Fund. The Filer will not cause any Pooled Fund to accept an in specie subscription or pay out redemption proceeds in specie if, at the time of the proposed In Specie Transaction, illiquid securities represent more than an immaterial portion of the portfolio of the Pooled Fund;
 - (i) the Filer will not cause any NI 81-102 Fund to engage in an In Specie Transaction unless the applicable NI 81-102 Fund is in compliance with the portfolio restrictions on the holding of illiquid securities described in section 2.4 of NI 81-102; and
 - (j) the Funds will keep written records of each In Specie Transaction, including records of each purchase and redemption of portfolio securities and the terms thereof for a period of five years commencing after the end of the financial year in which the trade occurred, the most recent two years in a reasonably accessible place.
32. The Filer has determined that it would be in the interests of the Funds and the Managed Accounts to engage in In Specie Transactions.
33. In Specie Transactions will be subject to:
- (a) compliance with the written policies and procedures of the Filer respecting In Specie Transactions that are consistent with applicable securities legislation and the Exemption Sought; and
 - (b) the oversight of the Filer to ensure that the In Specie Transactions represent the business judgment of the Filer acting in its discretionary capacity with respect to the Funds and the Managed Accounts,

uninfluenced by considerations other than the best interests of the Funds and Managed Accounts. The results of the oversight and review by the Filer will be submitted in the form of a report to the Filer's board of directors on a semi-annual basis.

Reasons for Exemption Sought

34. Each Fund for which the Filer acts or will act as trustee is, or will be, an associate of the Filer. Where the Filer is the portfolio manager to a Fund, whether the Fund is structured as a trust or a limited partnership, the Filer is a responsible person of the Fund. The Filer is or will be a responsible person of each Managed Account. Accordingly, each Fund structured as a trust is, or may be, an "associate" of a "responsible person" of another Fund or Managed Account as such terms are defined in the Legislation.
35. Pursuant to the Trading Prohibition, a Fund or a Managed Account, as applicable, may be restricted from making Inter-Fund Trades and In Specie Transactions with another Fund if:
- (a) the second Fund is an associate of a responsible person of the first Fund or of the Managed Account, as applicable, which will be the case on each occasion that the second Fund is structured as a trust; or
 - (b) a responsible person of the first Fund or the Managed Account, as applicable, is a portfolio manager to the second Fund, which may be the case for each second Fund.
36. The Filer, as the portfolio manager to a Pooled Fund or Managed Account, cannot rely upon the exemption from paragraph 13.5(2)(b) of NI 31-103 codified in subsection 6.1(4) of NI 81-107 because such codified relief is not available in the context of the Pooled Funds and Managed Accounts.
37. Absent the granting of the Exemption Sought, the Filer may be prohibited from engaging in Inter-Fund Trades and In Specie Transactions due to the Trading Prohibitions.

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:

Inter-Fund Trades

1. In connection with Inter-Fund Trades:
 - (a) the Inter-Fund Trade is consistent with the investment objective of the Fund or the Managed Account, as applicable;
 - (b) the Filer refers the Inter-Fund Trade to the IRC of the Fund involved in the manner contemplated by section 5.1 of NI 81-107, and each of the Filer and the IRC of the Fund complies with section 5.4 of NI 81-107 in respect of any standing instructions the IRC provides in connection with the Inter-Fund Trade;
 - (c) the IRC of each Fund has approved the Inter-Fund Trade in respect of that Fund in accordance with the terms of subsection 5.2(2) of NI 81-107;
 - (d) if the transaction is with a Managed Account, the investment management agreement or other documentation in respect of the Managed Account contains or will contain the authorization of the client to engage in Inter-Fund Trades and such authorization has not been revoked; and
 - (e) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107, except that for purposes of paragraph (e) of subsection 6.1(2) in respect of exchange-traded securities, the trade may be executed at the Last Sale Price.

In Specie Transactions

2. In connection with an In Specie Transaction where a Managed Account acquires securities of a Fund:
 - (a) if the transaction involves the purchase of securities in an NI 81-102 Fund, the IRC of the NI 81-102 Fund has approved the In Specie Transaction on behalf of the NI 81-102 Fund in accordance with the terms of subsection 5.2(2) of NI 81-107;
 - (b) the Filer and the applicable IRC comply with section 5.4 of NI 81-107 in respect of any standing instructions the applicable IRC provides in connection with the In Specie Transaction;
 - (c) the Filer obtains the prior written consent of the client of the Managed Account before it engages in the In Specie Transaction, and such consent has not been revoked;
 - (d) the Fund would, at the time of payment, be permitted to purchase the portfolio

securities;

- (e) the portfolio securities are acceptable to the portfolio manager of the Fund and meet the investment criteria of the Fund;
 - (f) the value of the portfolio securities is at least equal to the issue price of the securities of the Fund for which they are used as payment, valued as if the portfolio securities were portfolio assets of that Fund;
 - (g) the account statement next prepared for the Managed Account describes the portfolio securities delivered to the Fund and the value assigned to such portfolio securities; and
 - (h) the Fund keeps written records of each In Specie Transaction in a financial year of the Fund, reflecting details of the portfolio securities delivered to the Fund and the value assigned to such portfolio securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place.
3. In connection with an In Specie Transaction where a Managed Account redeems securities of a Fund:
 - (a) if the transaction involves the redemption of securities in an NI 81-102 Fund, the IRC of the NI 81-102 Fund has approved the In Specie Transaction on behalf of the NI 81-102 Fund in accordance with the terms of subsection 5.2(2) of NI 81-107;
 - (b) the Filer and the applicable IRC comply with section 5.4 of NI 81-107 in respect of any standing instructions the applicable IRC provides in connection with the In Specie Transaction;
 - (c) the Filer obtains the prior written consent of the client of the Managed Account before it engages in the In Specie Transaction, and such consent has not been revoked;
 - (d) the portfolio securities meet the investment criteria of the Managed Account acquiring the portfolio securities and are acceptable to the Filer;
 - (e) the value of the portfolio securities is equal to the amount at which those portfolio securities were valued by the Fund in calculating the net asset value per security used to establish the redemption price;
 - (f) the account statement next prepared for the Managed Account describes the

- portfolio securities received from the Fund and the value assigned to such portfolio securities; and
- (g) the Fund keeps written records of each In Specie Transaction in a financial year of the Fund, reflecting details of the securities delivered by the Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place.
4. In connection with an In Specie Transaction where a Pooled Fund purchases securities of a Fund:
- (a) if the transaction involves the purchase of securities in an NI 81-102 Fund, the IRC of the NI 81-102 Fund has approved the In Specie Transaction on behalf of the NI 81-102 Fund in accordance with the terms of subsection 5.2(2) of NI 81-107;
- (b) the Filer and the applicable IRC comply with section 5.4 of NI 81-107 in respect of any standing instructions the applicable IRC provides in connection with the In Specie Transaction;
- (c) the Fund acquiring the portfolio securities would, at the time of payment, be permitted to purchase the portfolio securities;
- (d) the portfolio securities are acceptable to the portfolio manager of the Fund acquiring the portfolio securities and meet the investment objective of such Fund;
- (e) the value of the portfolio securities is at least equal to the issue price of the securities of the Fund issuing the securities for which they are used as payment, valued as if the portfolio securities were portfolio assets of that Fund; and
- (f) each Fund keeps written records of each In Specie Transaction in a financial year of the Fund, reflecting details of the securities delivered to the Fund and the value assigned to such portfolio securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place.
5. In connection with an In Specie Transaction where a Pooled Fund redeems securities of a Fund:
- (a) if the transaction involves the redemption of securities in an NI 81-102 Fund, the IRC of the NI 81-102 Fund has approved the In Specie Transaction on behalf of the NI 81-102 Fund in accordance with
- the terms of subsection 5.2(2) of NI 81-107;
- (b) the Filer and the applicable IRC comply with section 5.4 of NI 81-107 in respect of any standing instructions the applicable IRC provides in connection with the In Specie Transaction;
- (c) the portfolio securities are acceptable to the portfolio manager of the Pooled Fund and are consistent with the investment objective of the Pooled Fund acquiring the portfolio securities;
- (d) the value of the portfolio securities is equal to the amount at which those securities were valued by the Fund in calculating the net asset value per security used to establish the redemption price; and
- (e) each Fund keeps written records of each In Specie Transaction in a financial year of the Fund, reflecting details of the portfolio securities delivered by the Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place.
6. The Filer does not receive any compensation in respect of any In Specie Transaction and, in respect of any delivery of portfolio securities further to an In Specie Transaction, the only charges paid by the Managed Account or the applicable Fund is the commission charged by the dealer executing the trade (if any) and/or any administrative charges levied by the custodian.

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

2.1.3 1832 Asset Management L.P. and Dynamic Credit Absolute Return II Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from short selling restrictions in NI 81-102 to permit alternative mutual funds to short sell “government securities”, as defined in NI 81-102, up to 300% of NAV, subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds – ss. 2.6.1, 2.6.2 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
1832 ASSET MANAGEMENT L.P.
(the Filer)**

AND

**IN THE MATTER OF
DYNAMIC CREDIT ABSOLUTE RETURN II FUND
(the Initial Fund)
and any future alternative mutual funds,
as that term is defined in National Instrument 81-102
Investment Funds (NI 81-102),
managed by the Filer or an affiliate of the Filer
(the Future Funds, together with the Initial 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 of the principal regulator (the **Legislation**) exempting the Funds from the following provisions of NI 81-102 in order to permit the Funds to short sell “government securities”, as that term is defined in NI 81-102 and set out below (**Government Securities**), up to a maximum of 300% of a Fund’s net asset value (**NAV**) (the **Requested Relief**):

(a) subparagraph 2.6.1(1)(c)(v), which restricts a Fund from selling a security short if, at the time, the aggregate market value of the securities sold short by the Fund exceeds 50% of the Fund’s NAV; and

(b) section 2.6.2, which restricts a Fund from borrowing cash or selling securities short if, immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of the securities sold short by the Fund (the **Combined Aggregate Value**) would exceed 50% of the Fund’s NAV and which requires a Fund, if the Combined Aggregate Value exceeds 50% of the Fund’s NAV, as quickly as commercially reasonable, to take all necessary steps to reduce the Combined Aggregate Value to 50% or less of the Fund’s NAV

(together, the **Short Selling Restrictions**).

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

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

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

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions* and NI 81-102 have the same meaning if used in this decision, unless otherwise defined. For ease of reference, “Government Security”, as defined in NI 81-102 and used in this decision, means an evidence of indebtedness issued, or fully and unconditionally guaranteed as to principal and interest, by any of the government of Canada, the government of a province or territory of Canada, or the government of the United States of America.

Representations

This decision is based on the following facts represented by the Filer on behalf of itself and the Funds:

Background Facts

The Filer

1. The Filer is a limited partnership established under the laws of Ontario. The Filer’s head office is located in Toronto, Ontario.

2. The Filer will be the trustee, investment fund manager and the portfolio manager of the Initial Fund. The Filer or an affiliate of the Filer will be the investment fund manager of the Future Funds.
3. The Filer 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.
4. The Filer is not in default of securities legislation in any Jurisdiction.

The Funds

5. Each Fund will be a mutual fund created under the laws of the Province of Ontario or another Jurisdiction and will be governed by NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.
6. Each Fund will be an "alternative mutual fund" as defined in NI 81-102.
7. The Initial Fund is not in default of securities legislation in any Jurisdiction.
8. Securities of each Fund will be offered by simplified prospectus filed in one or more of the Jurisdictions and, accordingly, each Fund will be a reporting issuer in one or more of the Jurisdictions.
9. The proposed investment objective of the Initial Fund is to maximize absolute returns over a complete market cycle through investment in diversified long and short positions of North American credit securities while seeking to mitigate interest rate risk while maintaining a weighted averaged credit rating of "Investment Grade". The Initial Fund will use alternative investment strategies including the use of leverage.
10. The Initial Fund may use leverage created primarily through physical short sales of fixed-income securities and other portfolio assets as well as leverage created by borrowing cash for investment purposes and/or the use of specified derivatives.

The Short Hedging Strategy

11. The Requested Relief would permit the Initial Fund to effectively pursue one of its investment strategies, namely, purchasing corporate bonds primarily with maturities of five years or less to

take advantage of pricing changes as the corporate bonds approach maturity and roll down the yield curve, while short selling Government Securities of equivalent maturities to reduce interest rate sensitivity (the **Short Hedging Strategy**). The Filer believes this strategy will mitigate the impact of changes in interest rates on the Initial Fund's portfolio.

12. The Filer has submitted that short sales of fixed income securities have a significantly different risk profile than short sales of equity securities. Where equity securities have the potential to significantly increase in value, the risk to a mutual fund that has sold an equity security short is much higher. In theory a mutual fund that has sold an equity security short may bear unlimited losses. With fixed income securities, there is a more limited downside given that the security will mature and that when it matures it will typically mature at the security's par value. In this scenario, a fund's risk at maturity is limited to the security's par value and the carrying cost of the short position.
13. For the reasons in the Filer's submissions referenced above, the Filer believes that from a risk management perspective, short sales of Government Securities are comparatively more straightforward to manage in that a fund's portfolio advisor knows the maturity price of the security. As a strategy to mitigate the impact of changes in interest rates on a fund's portfolio, the Filer believes the Short Hedging Strategy is a highly effective way to manage the portfolio's duration.
14. Ultimately, the Requested Relief would allow the Initial Fund to take a levered position in liquid, short-term investment grade corporate bonds with the increased potential returns associated with these investments, while managing the Initial Fund's duration and risk of mark-to-market losses on the corporate bond positions.
15. There are a number of specific reasons why the Filer believes the flexibility to execute the Short Hedging Strategy up to 300% of the Initial Fund's NAV would benefit the Initial Fund versus being limited to either using specified derivatives alone, or a combination of physical short selling and specified derivatives. Such short sales of Government Securities would enable the Filer to hedge and to remove interest rate risk more accurately across the maturity spectrum as compared to utilizing interest rate futures. There are hundreds of different available Government Securities in the market with varying maturities as opposed a limited number of interest rate futures available in Canada. If the Initial Fund were to hedge such risks through interest rate futures for maturities that did not correspond accurately to the interest rate risks the Initial

Fund was trying to mitigate, there is the possibility that such risks could not be effectively mitigated, which would increase the Initial Fund's general level of risk and prevent it from achieving one of its fundamental investment objectives. A further limitation of interest rate futures is their liquidity. Particular interest rate future contracts may lack sufficient liquidity at a given moment in time.

16. Another type of specified derivative the Initial Fund could use to mitigate interest rate exposure is interest rate swaps. Although interest rate swaps may be customized to fit different available maturities, they are operationally more burdensome and require cumbersome legal agreements with potential trading counterparties. While the Filer will utilize interest rate swaps where appropriate, short selling Government Securities is a highly liquid and efficient means of removing interest rate risk from the portfolio.

17. As such, the Filer is of the view that it would be in the Initial Fund's best interest to permit it to physically short sell Government Securities, up to 300% of the Fund's NAV, instead of being limited to achieving that degree of leverage through either specified derivatives alone, or a combination of physical short selling and specified derivatives, including for the following reasons:

(a) While derivatives can be used to create similar investment exposure as the Short Hedging Strategy up to 300% of the Initial Fund's NAV, the use of derivatives is less effective, is more complex, and is riskier than the Short Hedging Strategy. Derivatives provide credit exposure that is less targeted than the Short Hedging Strategy with a longer duration that increases risk, often without commensurately higher returns. In addition, implementing derivatives necessitates incremental transactional steps. These steps increase both operational risk and counterparty risk, as well as cost.

(b) The risk of covering short Government Securities positions in a rising market is largely mitigated by several factors: (i) the strong correlation between the government security sold short and the corporate fixed income security held long by the Initial Fund which provides a hedge against short cover risk; (ii) Government Securities are highly liquid and more than one issuance of Government Securities can be used to hedge interest rate risk; (iii) Government Securities have markedly lower price volatility than equity

securities; (iv) unlike equity securities, Government Securities have an effective upper value limit; and (v) financial institutions that facilitate short selling are regulated and implement effective risk controls on short sellers.

18. Short selling Government Securities in this manner also permits the Initial Fund use the proceeds of the sales to buy cash corporate bonds as opposed to seeking additional synthetic exposure. Long and short sales of Government Securities by the Initial Fund will be considerably easier to trade and settle than certain specified derivatives the Initial Fund could utilize.

19. Notwithstanding the Requested Relief, the Funds would still be required to comply with all of the requirements applicable to alternative mutual funds in sections 2.6.1 and 2.6.2 of NI 81-102, including with the 50% of NAV restriction on cash borrowing and the 50% of NAV restriction on short selling securities that are not Government Securities in paragraphs 2.6(2)(c) and 2.6.1(1)(v) of NI 81-102 respectively and with the total borrowing and short sale limits in section 2.6.2 of NI 81-102.

20. The Requested Relief would not change each Fund's obligation to comply with the aggregate gross exposure restriction in section 2.9.1 of NI 81-102, which places an overall limit on a Fund's exposure to borrowing, short selling and derivatives equal to 300% of the Fund's NAV (the **Aggregate Leverage Limit**).

21. The Aggregate Leverage Limit would continue to apply to a Fund's combined exposure to borrowing, short selling and derivatives and the Requested Relief. A decision to grant the Requested Relief would not permit a Fund to exceed the Aggregate Leverage Limit through a combination of investment strategies.

22. If the aggregate gross exposure were to exceed the Aggregate Leverage Limit, subsection 2.9.1(5) of NI 81-102 would require a Fund to, as quickly as commercially reasonable, take all necessary steps to reduce the aggregate gross exposure to 300% of the Fund's NAV or less.

23. Each short sale will be made consistent with the Fund's investment objectives and strategies.

24. Each Fund will implement the following controls when conducting a short sale:

(a) the Fund will assume the obligation to return to the Borrowing Agent (as defined in NI 81-102) the securities borrowed to effect the short sale;

- (b) the Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;
 - (c) the Filer will monitor the short positions of the Fund at least as frequently as daily;
 - (d) the security interest provided by the Fund over any of its assets that is required to enable the Fund to effect a short sale transaction is made in accordance with section 6.8.1 of NI 81-102 and will otherwise be in accordance industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;
 - (e) the Fund maintains appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records; and
 - (f) the Filer and the Fund keep proper books and records of short sales and all of its assets deposited with Borrowing Agents as security.
25. Each Fund's simplified prospectus will contain adequate disclosure of the Fund's short selling activities, including the material terms of the Requested Relief.
26. For the reasons provided above, the Filer respectfully submits that it would not be prejudicial to the public interest to grant the Requested Relief.

- 3. A Fund's aggregate exposure to short selling, cash borrowing and specified derivatives will not exceed the Aggregate Leverage Limit.
- 4. Each short sale will be made consistent with the Fund's investment objectives and investment strategies.
- 5. Each Fund's simplified prospectus discloses that the Fund is able to short sell Government Securities (as defined in NI 81-102) in an amount up to 300% of the Fund's NAV, including the material terms of this decision.

"Darren McKall"
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 Requested Relief is granted provided that:

- 1. The only securities which a Fund will sell short in an amount that exceeds 50% of the Fund's NAV will be securities that meet the definition of "Government Security" as that term is defined in NI 81-102.
- 2. Each short sale made by a Fund will otherwise comply with all of the short sale requirements applicable to alternative mutual funds in sections 2.6.1 and 2.6.2 of NI 81-102.

2.1.4 J.P. Morgan Securities LLC

Headnote

U.S. registered broker-dealer exempted from dealer and adviser registration requirements in section 25 of the Act to allow the Filer to conduct trading and advising activities with “Additional Category Permitted Clients” on the same terms and conditions as if the Filer had relied on the international dealer and international adviser exemptions in NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – “Additional Category Permitted Clients” includes certain family trusts, similar to clause (w) added to the “accredited investor” definition in NI 45-106 Prospectus Exemptions in May 2015 – requested relief intended to benefit individual permitted clients in Canada in that it allows the Filer to provide services to individual permitted clients and their immediate family members collectively as a family unit, allowing the individual permitted client to make use of a family trust or otherwise organize their financial affairs in an efficient manner for estate planning, business succession planning, charitable or other purposes.

Applicable Legislative Provisions

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1), 25(3), and 74(1).

Instruments Cited

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 1.1 definition of “permitted client” and ss. 8.18 and 8.26.
National Instrument 45-106 Prospectus Exemptions, clause (w) of the definition of “accredited investor” in s. 1.1 of NI 45-106.

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
J.P. MORGAN SECURITIES LLC
(the Filer)

DECISION

Background

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

- (a) the dealer registration requirement under the Legislation in respect of trades in Prescribed Securities (as defined below) to, with or on behalf of Additional Category Permitted Clients (as defined below) on the same terms and conditions as would apply to the Filer as if the Filer had made the trades to, with or on behalf of a permitted client (as defined below) in reliance on the international dealer exemption (as defined below) in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103); and
- (b) the adviser registration requirement under the Legislation in respect of advising Additional Category Permitted Clients in respect of investing in or buying or selling Prescribed Securities on the same terms and conditions as would apply to the Filer as if the Filer had provided such advice to a permitted client in reliance on the international adviser exemption (as defined below) in NI 31-103 (collectively, the Exemptions Sought).

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

- (a) the Ontario Securities Commission (OSC) 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 of Canada (the Passport Jurisdictions and 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.

For the purposes of this decision, the following terms have the following meaning:

“Additional Category Permitted Client” means any of the following:

- (a) a trust established by a permitted client for the benefit of the permitted client's family members of which a majority of the trustees are permitted clients and all of the beneficiaries are the permitted client's spouse, a former spouse of the permitted client, or a parent, grandparent, brother, sister, child or grandchild of that permitted client, of that permitted client's spouse or of that permitted client's former spouse;
- (b) an individual who is not a permitted client under clause (o) of the definition of "permitted client" in NI 31-103 but who, together with a spouse and/or a family trust as described in clause (a) above established by the individual or the individual's spouse, beneficially own financial assets, as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions (NI 45-106)*, having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$5 million;
- (c) a person or company that distributes securities of its own issue in Canada only to persons or companies who are permitted clients or who are referred to in clauses (a) and (b) above;

"foreign security" has the meaning ascribed to that term in subsection 8.18(1) of NI 31-103;

"international adviser exemption" means the exemption in section 8.26 of NI 31-103;

"international dealer exemption" means the exemption in section 8.18 of NI 31-103;

"permitted client" means a "permitted client" as defined in section 1.1 of NI 31-103;

"Prescribed Security" means a foreign security or other security that may be traded by a person or company to a permitted client in reliance on the international dealer exemption in NI 31-103 or in respect of which a person or company may provide advice to a permitted client in reliance on the international adviser exemption in NI 31-103.

Representations

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

1. The Filer is a limited liability company incorporated under the laws of the State of Delaware. Its head office is located at 383 Madison Avenue, New York, NY 10179, USA. It is a wholly owned subsidiary of J.P. Morgan Securities Holdings LLC, a Delaware limited liability company, and an indirect wholly owned subsidiary of J.P. Morgan Chase & Co. (JPM Chase), a Delaware corporation.

2. The Filer is registered as a broker-dealer with the U.S. Securities and Exchange Commission (SEC) and is a member of the Financial Industry Regulatory Authority (FINRA), a self-regulatory organization. This registration subjects the Filer to requirements over regulatory capital, lending of money, extension of credit and provision of margin, financial reporting to the SEC and FINRA, and segregation and custody of assets, as well as conduct rules, which provide protections that are substantially similar to the protections provided by the rules to which dealer-members of the Investment Industry Regulatory Organization of Canada (IIROC) are subject.
3. The Filer is a member of a number of major U.S. securities exchanges, including the New York Stock Exchange and NASDAQ.
4. The Filer provides a variety of capital raising, investment banking, market making, brokerage, and advisory services, including fixed income and equity sales and research, commodities trading, foreign exchange sales, emerging markets activities, securities lending and derivatives dealing for governments, corporate and financial institutions.
5. J.P. Morgan Securities Canada Inc. (JPMSCI) is an affiliate of the Filer. JPMSCI is registered as an investment dealer in each of the provinces of Canada, and as a derivatives dealer in Quebec, and is a dealer member of IIROC.
6. The Filer is currently relying on the international dealer exemption in NI 31-103 in each of the Jurisdictions to trade Prescribed Securities with permitted clients without being registered as a dealer and the international adviser exemption in NI 31-103 to provide advice in respect of Prescribed Securities to permitted clients without being registered as an adviser.
7. The definition of permitted client in NI 31-103 includes various categories that are generally similar to corresponding categories of the definition of "accredited investor" in subsection 73.3(1) of the *Securities Act* (Ontario) (OSA) and s. 1.1 of NI 45-106. However, as a result of minor differences in drafting, it appears that the categories in the definition of permitted client in NI 31-103 do not include certain persons or companies included in the corresponding categories in the definition of "accredited investor" in NI 45-106.
8. Specifically, under clause (o) of the definition of "permitted client" in section 1.1 of NI 31-103, "permitted client" includes "an individual who beneficially owns financial assets, as defined in section 1.1 of NI 45-106, having an aggregated realizable value that, before taxes but net of any related liabilities, exceeds \$5 million" (an Individual Permitted Client).

9. The financial test under clause (o) only applies to the Individual Permitted Client, and not to a spouse of the Individual Permitted Client. Under clause (o) as it is currently written a spouse of the Individual Permitted Client would also be required to satisfy the financial test under clause (o) separately.
10. Additionally, trusts are often used by individual investors for estate planning, business succession planning, charitable and other purposes. Under the current definition of “permitted client”, the only category that applies to a trust is clause (q) (i.e., a person or company, other than an individual or an investment fund, that has net assets of at least \$25 million as shown on its most recently prepared financial statements). Therefore, in order to qualify as a “permitted client”, a trust would be required to meet the \$25 million net asset test. This is too restrictive because it would exclude many family-oriented trusts, including most spousal trusts.
11. On or about May 5, 2015, the definition of “accredited investor” in s. 1.1 of NI 45-106 was amended to include new clause (w):
- (w) a trust established by an accredited investor for the benefit of the accredited investor’s family members of which a majority of the trustees are accredited investors and all of the beneficiaries are the accredited investor’s spouse, a former spouse of the accredited investor or a parent, grandparent, brother, sister, child or grandchild of that accredited investor, of that accredited investor’s spouse or of that accredited investor’s former spouse;
12. However, a corresponding change has not been made to the definition of “permitted client” in NI 31-103.
13. The Filer currently has Canadian clients who are Individual Permitted Clients and would like to establish relationships with prospective Canadian clients who may not qualify as Individual Permitted Clients because they are unable to satisfy the financial test under clause (o). Such current and prospective Canadian clients often want to receive trading and advisory services for their spouses as part of an integrated family wealth management and tax and succession planning program.
14. There are many possible scenarios in which a Canadian client and his or her spouse may collectively satisfy the financial test, but fail to do so individually, including where:
- (a) the Canadian client accumulated the bulk of the family’s assets and has sole beneficial ownership of those assets, so that the Canadian client qualifies as an Individual Permitted Client;
- (b) the Canadian client accumulated the bulk of the family’s assets but put those assets in the name of his or her spouse, so that the spouse qualifies as an Individual Permitted Client; and
- (c) the family’s assets are divided among the family members so that no individual family member satisfies the financial test to qualify as an Individual Permitted Client, but the family unit satisfies the financial test collectively.
15. In the above scenarios, one or more members of the family unit fail to satisfy the financial test and therefore do not qualify as an Individual Permitted Client. As a result, the Filer is prohibited under the terms of the international dealer exemption and the international adviser exemption from servicing such family members individually or collectively as a family unit.
16. The Filer wishes to treat (i) Canadian clients that are Individual Permitted Clients and their spouses, and (ii) Canadian clients that do not qualify as Individual Permitted Clients, but who collectively with their family members satisfy the financial test under clause (o) of the definition of “permitted client”, as applicable, as a single investing unit for purposes of the international dealer exemption and the international adviser exemption, regardless of the actual ownership allocation.
17. Similarly, the Filer wishes to treat Canadian clients that are Individual Permitted Clients and their family trusts as described in clause (a) of the definition of “Additional Category Permitted Client” as a single investing unit. In determining whether a trust is a family trust as described in clause (a) of the definition of “Additional Category Permitted Client”, the Filer will take reasonable steps to confirm that
- (a) a majority of the trustees are permitted clients;
- (b) actions by the trustees require consent of at least a majority of the trustees; and
- (c) all of the beneficiaries of the trust are within the class of persons described in clause (a) of the definition of “Additional Category Permitted Client”.
18. The Filer is a “market participant” as defined under the Legislation. As a market participant, among other requirements, the Filer is required to comply with the record keeping and provision of information provisions under the Legislation, which include the requirement to keep such books, records and other documents (a) as are necessary for the proper recording of business transactions and financial affairs, and the transactions executed on behalf of others, (b) as may

otherwise be required under Ontario securities law, and (c) as may reasonably be required to demonstrate compliance with Ontario securities laws, and to deliver such records to the OSC if required.

19. The Filer is in compliance in all material respects with U.S. securities laws. The Filer is not in default of securities legislation in any jurisdiction in Canada.

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 Exemptions Sought are granted provided that

- (a) in the case of the exemption from the dealer registration requirement, the Filer complies with the terms and conditions of the international dealer exemption as if the Filer had made the trades to, with or on behalf of a permitted client in reliance on the international dealer exemption; and
- (b) in the case of the exemption from the adviser registration requirement, the Filer complies with the terms and conditions of the international adviser exemption as if the Filer had provided such advice to a permitted client in reliance on the international adviser exemption;

It is further the decision of the principal regulator that this decision shall expire on the date that is the earlier of

- (a) the date on which amendments to NI 31-103 come into force that address the subject matter of this decision; and
- (b) five years after the date of this decision.

“Grant Vingoe”
Vice-Chair
Ontario Securities Commission

“Tim Moseley”
Vice-Chair
Ontario Securities Commission

2.1.5 Sun Life Global Investments (Canada) Inc.

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).

October 17, 2019

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

AND

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

AND

**IN THE MATTER OF
SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.
(the Filer)**

AND

**IN THE MATTER OF
THE FUNDS LISTED IN SCHEDULE A HERETO
(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 of the principal regulator (the **Legislation**) that the time limits for the renewal of the simplified prospectus of the Funds dated February 22, 2019 be extended to the time limits that would apply if the lapse date of the simplified prospectus of the Funds was July 18, 2020 (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 subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer is a corporation governed by the laws of Canada with its head office in Toronto, Ontario.
2. The Filer is registered as: (i) an investment fund manager in Ontario, Quebec and Newfoundland and Labrador; (ii) a commodity trading manager in Ontario; (iii) a portfolio manager in Ontario; and (iv) a mutual fund dealer in each of the Jurisdictions.
3. The Filer is the trustee and manager of each of the Funds. The Filer is also the manager of 45 other Sun Life mutual funds as listed in Schedule B (the **Other Funds**) that are offered in each of the Jurisdictions under a simplified prospectus with a lapse date of July 18, 2020.
4. Neither the Filer nor any of the Funds is in default of securities legislation in any of the Jurisdictions.
5. Each of the Funds is an open-ended mutual fund trust established under the laws of Ontario or a class of a mutual fund corporation established under the laws of Ontario. Each of the Funds is a reporting issuer in each of the Jurisdictions.
6. Securities of the Funds are currently qualified for distribution in each of the Jurisdictions under the current simplified prospectus of the Funds dated February 22, 2019, as amended by amendment no. 1 dated May 24, 2019 (the **Current Prospectus**).
7. The lapse date for the Current Prospectus is February 22, 2020 (the **Current Lapse Date**). Accordingly, under the Legislation, the distribution of securities of each of the Funds would have to cease on the Current Lapse date unless: (i) the Funds file a *pro forma* simplified prospectus at least 30 days prior to its Current Lapse Date; (ii) the final simplified prospectus is filed no later than 10 days after its Current Lapse Date; and (iii) a receipt for the final simplified prospectus is obtained within 20 days after its Current Lapse Date.
8. The Filer wishes to combine the simplified prospectus of the Funds with the simplified prospectus of the Other Funds in order to reduce renewal, printing and related costs. Offering the Funds under the same renewal simplified prospectus and annual information form (the **Prospectus Documents**) as the Other Funds would facilitate the distribution of the Funds in the Jurisdictions under the same prospectus disclosure and enable the Filer to streamline disclosure across the Filer's fund platform. The Funds share many common operational and administrative features with the Other Funds and combining them in the same simplified prospectuses will allow investors to more easily compare the features of the Other Funds and the Funds.
9. The Filer may make changes to the features of the Other Funds as part of the process of renewing the Other Funds' Prospectus Documents. The ability to file the Prospectus Documents of the Funds with those of the Other Funds will ensure that the Filer can make the operational and administrative features of the Funds and the Other Funds consistent with each other, if necessary.
10. If the Requested Relief is not granted, it will be necessary to renew the Prospectus Documents of the Funds twice within a short period of time in order to consolidate the Prospectus Documents of the Funds with the Prospectus Documents of the Other Funds, and it would be unreasonable for the Filer to incur the costs and expenses associated therewith, given investors would not be prejudiced by the Requested Relief.
11. There have been no material changes in the affairs of the Funds since the date of the Current Prospectus. Accordingly, the Current Prospectus and current fund facts document(s) of each of the Funds continue to provide accurate information regarding the Funds.
12. Given the disclosure obligations of the Filer and the Funds, should any material change in the business, operations or affairs of the Funds occur, the Current Prospectus and current fund facts document(s) of the applicable Fund(s) will be amended as required under the Legislation.
13. New investors of the Funds will receive delivery of the most recently filed fund facts document(s) of the applicable Fund(s). The Current Prospectus will remain available to investors upon request.
14. The Requested Relief will not affect the accuracy of the information contained in the Current Prospectus or the respective fund facts document(s) of each of the 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 Requested Relief is granted.

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

**Schedule A
The Funds**

Sun Life Granite Conservative Portfolio
Sun Life Granite Moderate Portfolio
Sun Life Granite Balanced Portfolio
Sun Life Granite Balanced Growth Portfolio
Sun Life Granite Growth Portfolio
Sun Life Granite Income Portfolio
Sun Life Granite Enhanced Income Portfolio
Sun Life Sentry Value Fund
Sun Life Schroder Global Mid Cap Fund
Sun Life Dynamic American Fund
Sun Life Templeton Global Bond Fund
Sun Life Dynamic Equity Income Fund
Sun Life Dynamic Strategic Yield Fund
Sun Life NWQ Flexible Income Fund
Sun Life BlackRock Canadian Equity Fund
Sun Life BlackRock Canadian Balanced Fund
Sun Life MFS Canadian Bond Fund
Sun Life MFS Canadian Equity Growth Fund
Sun Life MFS Dividend Income Fund
Sun Life MFS U.S. Equity Fund
Sun Life MFS Low Volatility International Equity Fund
Sun Life MFS Low Volatility Global Equity Fund
Sun Life Franklin Bissett Canadian Equity Class*
Sun Life Invesco Canadian Class*

*each a class of shares of Sun Life Global Investments Corporate Class Inc., a mutual fund corporation.

**Schedule B
The Other Funds**

Sun Life MFS Global Growth Fund
 Sun Life MFS Global Value Fund
 Sun Life MFS U.S. Growth Fund
 Sun Life MFS U.S. Value Fund
 Sun Life MFS International Growth Fund
 Sun Life MFS International Value Fund
 Sun Life Excel Emerging Markets Fund
 Sun Life MFS Global Total Return Fund
 Sun Life JPMorgan International Equity Fund
 Sun Life Milestone 2020 Fund
 Sun Life Milestone 2025 Fund
 Sun Life Milestone 2030 Fund
 Sun Life Milestone 2035 Fund
 Sun Life Multi-Strategy Bond Fund
 Sun Life MFS Monthly Income Fund
 Sun Life Money Market Fund
 Sun Life Dynamic Energy Fund
 Sun Life Excel China Fund
 Sun Life Excel Emerging Markets Balanced Fund
 Sun Life Excel High Income Fund
 Sun Life Excel India Balanced Fund
 Sun Life Excel India Fund
 Sun Life Excel New India Leaders Fund
 Sun Life Tactical Fixed Income ETF Portfolio
 Sun Life Tactical Conservative ETF Portfolio
 Sun Life Tactical Balanced ETF Portfolio
 Sun Life Tactical Growth ETF Portfolio
 Sun Life Tactical Equity ETF Portfolio
 Sun Life BlackRock Canadian Balanced Class*
 Sun Life BlackRock Canadian Composite Equity Class*
 Sun Life BlackRock Canadian Equity Class*
 Sun Life Money Market Class*
 Sun Life Dynamic Equity Income Class*
 Sun Life Dynamic Strategic Yield Class*
 Sun Life MFS Dividend Income Class*
 Sun Life Granite Conservative Class*
 Sun Life Granite Moderate Class*
 Sun Life Granite Balanced Class*
 Sun Life Granite Balanced Growth Class*
 Sun Life Granite Growth Class*
 Sun Life MFS Canadian Equity Growth Class*
 Sun Life Sentry Value Class*
 Sun Life MFS U.S. Growth Class*
 Sun Life MFS Global Growth Class*
 Sun Life MFS International Growth Class*

*each a class of shares of Sun Life Global Investments Corporate Class Inc., a mutual fund corporation.

2.1.6 Guardian Capital LP

Headnote

NP 11-203 – Relief granted from the requirement in section 6.1 of NI 81-102 that all portfolio assets of an investment fund must be held under the custodianship of one custodian – Relief needed because plain reading of exemption in section 6.8.1 of NI 81-102 from the requirement in section 6.1 of NI 81-102 results in unintended consequences – Relief permits mutual funds and alternative mutual funds to deposit portfolio assets with a borrowing agent as security in connection with a short sale of securities, if the aggregate market value of the portfolio assets held by the borrowing agent after such deposit, excluding the aggregate market value of the proceeds from outstanding short sales of securities held by the borrowing agent does not: (a) in the case of a mutual fund, other than an alternative mutual fund, exceed 10% of the net asset value of the mutual fund at the time of deposit; and (b) in the case of an alternative mutual fund, exceed 25% of the net asset value of the alternative mutual fund at the time of deposit.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 6.1, 6.8.1, and 19.1.

November 18, 2019

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

AND

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

AND

**IN THE MATTER OF
GUARDIAN CAPITAL LP
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of Guardian Strategic Income Fund (**GSIF**), any alternative mutual fund established in the future and managed by the Filer or an affiliate of the Filer (together with GSIF, the **Alternative Mutual Funds**) and any current or future mutual fund, other than an Alternative Mutual Fund, managed by the Filer or an affiliate of the Filer (each, a **Mutual Fund** and, together with the Alternative Mutual Funds, the **Funds**) for a decision under the securities legislation of the principal

regulator (the **Legislation**) exempting the Funds from the requirement set out in subsection 6.1(1) of National Instrument 81-102 *Investment Funds (NI 81-102)* that provides that, except as provided in section 6.8, 6.8.1 and 6.9 of NI 81-102, all portfolio assets of an investment fund must be held under the custodianship of one custodian that satisfies the requirements of section 6.2, in order to permit a Fund to deposit portfolio assets with a borrowing agent that is not the Fund's custodian or sub-custodian in connection with a short sale of securities, if the aggregate market value of the portfolio assets held by the borrowing agent after such deposit, excluding the aggregate market value of the proceeds from outstanding short sales of securities held by the borrowing agent, does not:

- (a) in the case of each Mutual Fund, exceed 10% of the net asset value (**NAV**) of the Mutual Fund at the time of deposit; and
- (b) in the case of each Alternative Mutual Fund, exceed 25% of the NAV of the Alternative Mutual Fund at the time of deposit,

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

Interpretation

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

Prime Broker means any entity that acts as, among other things, a borrowing agent to one or more investments funds.

Representations

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

1. The Filer is a limited partnership established under the laws of the Province of Ontario. The general partner of the Filer is Guardian Capital Inc., a corporation incorporated under the laws of the Province of Ontario. The Filer's head office is located in Toronto, Ontario.
2. The Filer is registered as a portfolio manager and exempt market dealer in each province of Canada and as an investment fund manager in each of

Ontario, Québec and Newfoundland and Labrador. The Filer is also registered as a commodity trading counsel and commodity trading manager in Ontario.

3. The Filer or an affiliate of the Filer is, or will be, the investment fund manager of each of the Funds.
4. Since May 27, 2013, the series A, series F, series I and series X units of GSIF have been distributed to investors on a prospectus-exempt basis in accordance with National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* in each Jurisdiction.
5. The Filer has filed a simplified prospectus, annual information form and fund facts (the **Disclosure Documents**) with respect to the series A, series F and series I units (the **Units**) of GSIF under which GSIF will distribute Units to the public, thereby becoming a reporting issuer under the securities legislation of the Jurisdictions except for Québec. In addition, GSIF will become subject to the requirements of NI 81-102 that relate to alternative mutual funds and to the requirements of NI 81-106 that apply to investment funds that are reporting issuers. The series X units of GSIF will continue to be offered only on a prospectus-exempt basis.
6. Each Fund is, or will be, a reporting issuer in one or more Jurisdictions and distributes its units to the public pursuant to disclosure documents prepared and filed in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* or National Instrument 41-101 *General Prospectus Requirements*.
7. None of the Filer, GSIF, or an existing Fund is in default of securities legislation in any Jurisdiction.
8. In connection with, among other things, the short sale of securities that the Funds will or may engage in, each Fund is permitted to grant a security interest in favour of, and deposit pledged portfolio assets with, the entity that acts as, among other things, a Prime Broker to it, whether the Fund is an Alternative Mutual Fund or a Mutual Fund.
9. Effective as of January 3, 2019, NI 81-102 was amended to include alternative mutual funds. The ability of alternative mutual funds to borrow cash and to sell short securities more extensively than other investment funds governed by NI 81-102 has led to the increased involvement of Prime Brokers in the operations of these alternative mutual funds. While the prime brokerage model works well in the exempt investment fund space, the prime brokerage community and investment fund managers are experiencing greater difficulties in applying that model to alternative mutual funds and other investment funds under NI 81-102.

10. Under section 6.8.1 of NI 81-102, if a Mutual Fund engages as its Prime Broker an entity that is not its custodian or sub-custodian, then it may only deliver to its Prime Broker portfolio assets having a market value, in the aggregate, of not more than 10% of the NAV of the Mutual Fund at the time of deposit. If an Alternative Mutual Fund engages as its Prime Broker an entity that is not its custodian or sub-custodian, then it may only deliver to its Prime Broker portfolio assets having a market value, in the aggregate, of not more than 25% of the NAV of the Alternative Mutual Fund at the time of deposit.
11. A Prime Broker may not wish to act as borrowing agent for a Mutual Fund that wants to sell short securities having an aggregate market value of up to 20% of the Mutual Fund's NAV if the Prime Broker is only permitted to hold as security for such transactions portfolio assets, including the proceeds from the short sale, having an aggregate market value that is not in excess of 10% of the NAV of the Mutual Fund.
12. The issue is even greater in the context of an Alternative Mutual Fund, as a Prime Broker will not want to act as borrowing agent for an Alternative Mutual Fund that wants to sell short securities having an aggregate market value of up to 50% of the Alternative Mutual Fund's NAV if the Prime Broker is only permitted to hold as security for such transactions portfolio assets, including the proceeds from the short sale, having an aggregate market value that is not in excess of 25% of the NAV of the Alternative Mutual Fund.
13. The prime brokerage operational and pricing models in the context of short selling are premised on the ability of the Prime Broker to retain, as collateral for the obligations of the applicable Fund, the proceeds from the short sales, whether such proceeds are cash or are used by the Fund to purchase other portfolio assets. These models are also based on the ability of the Prime Broker to hold additional assets of the Fund as collateral for those obligations.
14. Many Prime Brokers are not appointed as custodians or sub-custodians under NI 81-102, as it can be operationally challenging to appoint them to act in that capacity.
15. Given the collateral requirements that Prime Brokers impose on their customers that engage in the short sale of securities, if the 10% and 25% of NAV limitations set out in section 6.8.1 of NI 81-102 apply, then the Funds will need to retain two or more Prime Brokers in order to sell short securities to the extent permitted under section 2.6.1 of NI 81-102. This will result in inefficiencies for the Funds, increase their costs of operations, reduce returns and negatively impact investors.

16. While the collateral limits for the short sale of securities is currently topical in the context of alternative mutual funds, the Filer submits that there is no policy reason to differentiate between Alternative Mutual Funds and Mutual Funds to the extent that Mutual Funds also engage in the short selling of securities.

17. The Filer submits that it is not prejudicial to the public interest to grant the Exemption Sought.

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 the Funds otherwise comply with subsections 6.8.1(2) and (3) of NI 81-102.

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

2.1.7 Horizons ETFs Management (Canada) Inc.
et al.

November 8, 2019

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions relief granted from sections 15.6(1)(a)(i), 15.6(1)(d)(i), 15.8(2)(a), 15.8(3)(a) and 15.9(2)(d) of National Instrument 81-102 Investment Funds to permit new exchange traded funds to include in their sales communications performance data from their terminating funds – terminating funds are substantially similar to their continuing funds including investment strategies, objectives, expenses and fees – relief granted from section 3B.2 of National Instrument 41-101 General Prospectus Disclosure for the purposes of relief requested from Items 2 and 5 of Part I of Form 41-101F4 Information Required in an ETF Facts Document, to permit the new funds to include in their respective ETF facts documents the past performance data for their respective terminating funds, Items 1.3 and 1.4 of Part 2 of Form 41-101F4 to permit the new funds to include in their respective ETF facts documents the expenses and fees of their respective terminating funds, and also item 17.2 of Form 41-101F2 Information Required in an Investment Fund Prospectus to permit the new funds to disclose the trading price and volume information of their respective terminating funds in their long-form prospectus – relief granted from section 4.4 of National Instrument 81-106 Investment Fund Continuous Disclosure for the purposes of the relief requested from Form 81-106F1, Items 3.1(1), 3.1(7), 3.1(8), 4.1(1), 4.1(2), 4.2(1), 4.2(2) and 4.3(1)(a) of Part B of Form 81-106F1, and Items 3(1) and 4 of Part C of Form 81-106F1, to permit exchange traded funds to include in annual and interim management reports of fund performance the financial highlights and past performance of the funds that are derived from the funds' annual financial statements that pertain to their respective terminating funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 15.6(1)(a)(i), 15.6(1)(d)(i), 15.8(2)(a), 15.8(3)(a), 15.9(2)(d) and 19.1.
National Instrument 41-101 General Prospectus Requirements, ss. 3B.2 and 17.1.
Item 17.2 of Form 41-101F2 Information Required in an Investment Fund Prospectus.
Items 2 and 5 of Part I of Form 41-101F4 and Item 1.3 and 1.4 of Form 41-101F4 Information Required in an ETF Facts Document.
National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.1, 2.3, 4.4 and 17.1.
Items 3.1(1), 3.1(7), 3.1(8), 4.1(1), 4.1(2), 4.2(1), 4.2(2) and 4.3(1)(a) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1 Contents of Annual and Interim Management Report of Fund Performance.

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
HORIZONS ETFs MANAGEMENT (CANADA) INC.
(the Filer)

AND

HORIZONS S&P/TSX 60™ INDEX ETF
HORIZONS S&P 500® INDEX ETF
HORIZONS S&P 500 CAD HEDGED INDEX ETF
HORIZONS S&P/TSX CAPPED ENERGY INDEX ETF
HORIZONS S&P/TSX CAPPED FINANCIALS INDEX ETF
HORIZONS CDN SELECT UNIVERSE BOND ETF
HORIZONS NASDAQ-100® INDEX ETF
HORIZONS EURO STOXX 50® INDEX ETF
HORIZONS CDN HIGH DIVIDEND INDEX ETF
HORIZONS US 7-10 YEAR TREASURY BOND ETF
HORIZONS US 7-10 YEAR TREASURY BOND CAD HEDGED
ETF
HORIZONS LADDERED CANADIAN PREFERRED SHARE
INDEX ETF
HORIZONS INTL DEVELOPED MARKETS EQUITY INDEX
ETF
HORIZONS EQUAL WEIGHT CANADA REIT INDEX ETF
HORIZONS EQUAL WEIGHT CANADA BANKS INDEX ETF
HORIZONS GOLD ETF
HORIZONS SILVER ETF
HORIZONS CRUDE OIL ETF
HORIZONS NATURAL GAS ETF
BETAPRO GOLD BULLION 2X DAILY BULL ETF
BETAPRO GOLD BULLION -2X DAILY BEAR ETF
BETAPRO CRUDE OIL 2X DAILY BULL ETF
BETAPRO CRUDE OIL -2X DAILY BEAR ETF
BETAPRO NATURAL GAS 2X DAILY BULL ETF
BETAPRO NATURAL GAS -2X DAILY BEAR ETF
BETAPRO SILVER 2X DAILY BULL ETF
BETAPRO SILVER -2X DAILY BEAR ETF
BETAPRO S&P/TSX 60™ 2X DAILY BULL ETF
BETAPRO S&P/TSX 60™ -2X DAILY BEAR ETF
BETAPRO S&P/TSX CAPPED FINANCIALS™ 2X DAILY
BULL ETF
BETAPRO S&P/TSX CAPPED FINANCIALS™ -2X DAILY
BEAR ETF
BETAPRO S&P/TSX CAPPED ENERGY™ 2X DAILY BULL
ETF
BETAPRO S&P/TSX CAPPED ENERGY™ -2X DAILY BEAR
ETF
BETAPRO NASDAQ-100® 2X DAILY BULL ETF
BETAPRO NASDAQ-100® -2X DAILY BEAR ETF
BETAPRO S&P 500® 2X DAILY BULL ETF
BETAPRO S&P 500® -2X DAILY BEAR ETF

**BETAPRO CANADIAN GOLD MINERS 2X DAILY BULL ETF
 BETAPRO CANADIAN GOLD MINERS -2X DAILY BEAR ETF
 BETAPRO MARIJUANA COMPANIES 2X DAILY BULL ETF
 BETAPRO MARIJUANA COMPANIES INVERSE ETF
 BETAPRO S&P/TSX 60™ DAILY INVERSE ETF
 BETAPRO S&P 500® DAILY INVERSE ETF
 BETAPRO S&P 500 VIX SHORT-TERM FUTURES™ ETF
 (the Horizons ETFs or the Continuing Funds)**

DECISION

Background

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

- (a) item 17.2 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* to permit the Horizons ETFs to disclose the trading price and volume information required thereunder of the respective Terminating Funds (as defined below) as their trading price and volume information (the **Prior Sales Data**);
- (b) section 3B.2 of National Instrument 41-101 *General Prospectus Requirements (NI 41-101)* for the purposes of the relief requested herein from Form 41-101F4 *Information Required in an ETF Facts Document (Form 41-101F4)*;
- (c) item 2 of Part 1 of Form 41-101F4 to permit the Continuing Funds to disclose the Quick Facts, Trading Information and Pricing Information of the respective Terminating Funds as their Quick Facts, Trading Information and Pricing Information in the ETF facts document;
- (d) item 5 of Part 1 of Form 41-101F4 to permit the Continuing Funds to use performance data of the respective Terminating Funds in the Year-by-year returns, Best and worst 3-month returns and Average return in the ETF facts document;
- (e) items 1.3 and 1.4 of Part 2 of Form 41-101F4 to permit the Continuing Funds to use the information about the expenses and fees of the respective Terminating Funds in the ETF facts document;
- (f) sections 15.6(1)(a)(i), 15.6(1)(d)(i), 15.8(2)(a), 15.8(3)(a) and 15.9(2)(d) of National Instrument 81-102 *Investment Funds (NI 81-102)* to permit the Continuing Funds to use performance data of the Terminating Funds in sales communications and reports to securityholders (collectively, the **Fund Communications**);

- (g) section 4.4 of National Instrument 81-106 *Investment Fund Continuous Disclosure (NI 81-106)* for the purposes of the relief requested herein from Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance (Form 81-106F1)* for the Continuing Funds;
- (h) sections 2.1 and 2.3 of NI 81-106 to permit the Continuing Funds to use the information required to be included in the financial statements of the Terminating Funds in the Continuing Funds' annual and interim financial statements; and
- (i) items 3.1(1), 3.1(7), 3.1(8), 4.1(1) in respect of the requirement to comply with subsections 15.3(2) and 15.9(2)(d) of NI 81-102, 4.1(2), 4.2(1), 4.2(2) and 4.3(1)(a) of Part B of Form 81-106F1 and items 3(1) and 4 of Part C of Form 81-106F1 to permit the Continuing Funds to include in their annual and interim management reports of fund performance the performance data and information derived from the financial statements, or otherwise derived, as applicable (collectively, the **Financial Data**) of their respective Terminating Funds,

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions (NI 14-101)*, MI 11-102 and NI 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:

1. The Filer is a corporation existing under the laws of Canada, with its head office located in Toronto, Ontario. The Filer is a wholly-owned subsidiary of Mirae Asset Global Investments Co., Ltd.

2. The Filer is registered as (a) an investment fund manager in Newfoundland and Labrador, Ontario and Québec, (b) a portfolio manager in Alberta, British Columbia, Ontario and Québec (c) a dealer in the category of exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan, (d) a commodity trading adviser in Ontario and (e) a commodity trading manager in Ontario.
3. The Filer is not in default of applicable securities legislation in any of the Canadian Jurisdictions.
4. The Filer is the manager and trustee of certain exchange traded funds (the **Terminating Funds**), currently structured as trusts, and is the manager and investment manager of the Continuing Funds.
5. The Filer's primary business is to act as manager and investment manager for the Terminating Funds, the Continuing Funds and other exchange traded funds in Canada.
6. Each of the Terminating Funds is an exchange traded mutual fund or alternative mutual fund established under the laws of the Province of Ontario.
7. Securities of the Terminating Funds are distributed in each of the Canadian Jurisdictions under long form prospectuses and ETF facts documents prepared in accordance with the requirements of NI 41-101 and NI 81-102, as applicable.
8. Each Terminating Fund is a reporting issuer under the applicable securities legislation of each of the Canadian Jurisdictions.
9. The Terminating Funds are subject to, among other laws and regulations, NI 81-102, NI 81-106 and National Instrument 81-107 *Independent Review Committee for Investment Funds (NI 81-107)*.
10. The Terminating Funds are not in default of applicable securities legislation in any of the Canadian Jurisdictions.
11. Horizons ETF Corp. is a mutual fund corporation established under the laws of Canada. The authorized capital of the Company includes an unlimited number of non-cumulative, redeemable, non-voting classes of shares (each, a **Corporate Class**), issuable in an unlimited number of series, and one class of voting shares designated as "Class J Shares".
12. Each Horizons ETF will be a separate Corporate Class and initially consists of a single series of exchange traded fund shares (**ETF Shares**).
13. Securities of the Horizons ETFs will be distributed in each of the Canadian Jurisdictions under long form prospectuses and ETF facts documents prepared in accordance with the requirements of NI 41-101 and NI 81-102, as applicable.
14. Each Horizons ETF will be a reporting issuer under the applicable securities legislation of each of the Canadian Jurisdictions.
15. The Horizons ETFs will be subject to, among other laws and regulations, NI 81-102, NI 81-106 and NI 81-107.
16. The Horizons ETFs are not in default of applicable securities legislation in any of the Canadian Jurisdictions.
17. The Filer has proposed to reorganize the Terminating Funds into the Continuing Funds before the end of 2019, subject to the approval of the securityholders of the Terminating Funds, at a special meeting to be held for that purpose.
18. The Filer separately filed an application on September 9, 2019 for pre-approval of the proposed merger (the **Mergers**) of the Terminating Funds into the Horizons ETFs. The Commission granted approval of the Mergers on October 24, 2019, provided that before implementing a Merger in respect of a particular Terminating Fund, the Filer obtains the prior approval of the securityholders of that Terminating Fund at a special meeting held for that purpose.
19. The Continuing Funds are being created for purposes of implementing the Mergers, and therefore:
 - a) the unitholders of Terminating Funds will have rights as shareholders of the Continuing Funds that are substantially similar in all respects to the rights they had as unitholders of the Terminating Funds;
 - b) the unitholders of the Terminating Funds will become holders of a corresponding class of ETF Shares of the relevant Continuing Fund, with the same aggregate net asset value as they held before the Mergers as unitholders of the relevant Terminating Fund;
 - c) the Continuing Funds will have fundamental investment objectives, as well as investment strategies, that are substantially similar in all material respects to the fundamental investment objectives and investment strategies of the corresponding Terminating Funds; and
 - d) the Continuing Funds will have fee structures and valuation procedures that are substantially similar to the fee structures and valuation procedures of

the corresponding Terminating Fund.

20. As a result, notwithstanding the Mergers, the Continuing Funds will be managed in a manner which is substantially similar in all material respects to the manner in which the Terminating Funds have been managed.

21. The Terminating Funds' Independent Review Committee has reviewed the conflicts of interests matters associated with the Mergers, including the process to be followed in connection with such Mergers and the preservation of some or all of the Terminating Funds for the benefit of the holders of the Continuing Funds, and after reasonable inquiry has advised the Filer that, in its determination, if implemented, the Mergers achieve a fair and reasonable result for each of the Terminating Funds.

22. The Filer filed preliminary prospectuses and preliminary ETF facts documents dated October 11, 2019 with respect to the Continuing Funds.

23. The Continuing Funds will operate in accordance with NI 81-102, except for any exemptive relief that has been previously obtained.

24. As the Continuing Funds are new, the funds will not have their own past performance, price or trading data on the date the Mergers are implemented.

25. The Filer will not begin distribution of ETF Shares of the Continuing Funds prior to the completion of the Mergers.

26. As the Filer intends to cease distribution of the Terminating Funds following the Mergers, it does not intend to renew the Terminating Funds' prospectus under subsection 62(2) of the *Securities Act* (Ontario).

27. The Continuing Funds will be new funds. However, while the Continuing Funds will each have the same underlying assets and liabilities as the corresponding Terminating Funds, as new funds, they will not have their own Financial Data or Prior Sales Data as at the effective date of the Mergers. In order for the Mergers to be as seamless as possible for unitholders of the Terminating Funds, the Filer proposes that:

- (a) the Continuing Funds will prepare annual management reports of fund performance commencing with the year ended December 31, 2019 and interim management reports of fund performance commencing with the six-month period ended June 30, 2020 using the relevant Terminating Funds' historical Financial Data; and

(b) the Continuing Funds will prepare comparative annual financial statements commencing with the year ended December 31, 2019 under section 2.1 of NI 81-106 using the relevant Terminating Funds' historical Financial Data.

28. The Financial Data and Prior Sales Data of the Terminating Funds is significant information which can assist investors in determining whether to purchase shares of the Continuing Funds. In the absence of the relief requested herein, investors will have no financial information (such as past performance) on which to base such an investment decision.

29. The Filer proposes to include the Prior Sales Data of the Terminating Funds in the applicable final prospectuses for the Continuing Funds.

30. The Filer proposes to include the performance data of each of the Terminating Funds in the corresponding Continuing Funds' Fund Communications and ETF facts document because the investment objectives and investment strategies employed by the Terminating Funds prior to the Mergers and the Continuing Funds after the Mergers are the same.

31. The Filer proposes to state that the Quick Facts, Trading Information and Pricing Information in the ETF facts document for each of the Continuing Funds is based upon the Quick Facts, Trading Information and Pricing Information of the corresponding Terminating Fund.

32. The Filer proposes to use information of the Terminating Funds for the purposes of performance data in the Year-by-year returns, Best and worst 3-month returns and Average return in the ETF facts document for each of the Continuing Funds.

33. The Filer proposes to use the information about the expenses and fees of the Terminating Funds in the ETF facts document for each of the Continuing Funds.

34. Each Continuing Fund will be indistinguishable from its corresponding Terminating Fund since the investment objectives, investment strategies and management fees attached to each continuing series of each Continuing Fund will be substantially similar in all material respects as the corresponding Terminating Fund.

35. The Filer is seeking to make the Mergers as seamless as possible for unitholders of the Terminating Funds. Accordingly, the Filer submits that treating each Continuing Fund as a continuation of the Terminating Fund for purposes of the above-mentioned information would be beneficial to investors and that to do otherwise would cause unnecessary confusion among investors concerning the differences between the Terminating Funds and

the Continuing Funds. Any such disclosure would note that the performance includes information from the time that the Continuing Fund operated as a trust prior to the Mergers.

36. The Filer submits that investors will not be misled if the above mentioned information of each Continuing Fund reflects the information of the corresponding Terminating Fund.

Decision

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

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

- (a) the Continuing Funds' Fund Communications include the applicable performance data of the Terminating Funds prepared in accordance with Part 15 of NI 81-102;
- (b) the Continuing Funds' prospectuses disclose that the Prior Sales Data is the Prior Sales Data of the corresponding Terminating Fund;
- (c) the ETF facts document of each Continuing Fund:
 - (i) states that the Quick Facts, Trading Information and Pricing Information of the Continuing Fund is the Quick Facts, Trading Information and Pricing Information of the corresponding Terminating Fund and discloses the applicable Merger;
 - (ii) includes the performance data of the respective Terminating Fund in the Year-by-year returns, Best and worst 3-month returns and Average return prepared in accordance with Part 15 of NI 81-102;
 - (iii) includes the information about fees and expenses required by Form 41-101F4 of the respective Terminating Fund; and
- (d) the management reports of fund performance for each Continuing Fund include the Financial Data of the Terminating Funds, pertaining to the corresponding class of the Terminating Funds, and disclose the Mergers for the relevant time periods.

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

2.2 Orders

2.2.1 Valener Inc.

Headnote

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

Applicable Legislative Provisions

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

Citation: 2009-IC-0019

November 15, 2019

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

AND

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

AND

**IN THE MATTER OF
VALENER INC.
(the Filer)**

ORDER

Background

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

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

- (a) the *Autorité des marchés financiers* is the principal regulator for this application, and
- (b) the Filer has provided notice that subsection 4C.5(1) of *Regulation 11-102 respecting Passport System (Regulation 11-102)* is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador and in each of the Yukon, the Northwest Territories and Nunavut.

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, Regulation 11-102 and, in Québec, in *Regulation 14-501Q on definitions* 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 *Regulation 51-105 respecting 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 *Regulation 21-101 respecting Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities legislation in any jurisdiction.

Order

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

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

Martin Latulippe
Director, Continuous Disclosure

2.2.2 Holloway Lodging Corporation – s. 1(6) of the OBCA

Headnote

Applicant deemed to have ceased to be offering its securities to the public under the Business Corporations Act (Ontario).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16 as am., s. 1(6).

**IN THE MATTER OF
THE BUSINESS CORPORATIONS ACT (ONTARIO)
R.S.O. 1990, c. B.16, AS AMENDED
(the OBCA)**

AND

**IN THE MATTER OF
HOLLOWAY LODGING CORPORATION
(the Applicant)**

**ORDER
(Subsection 1(6) of the OBCA)**

UPON the application of the Applicant to the Ontario Securities Commission (the **Commission**) for an order pursuant to subsection 1(6) of the OBCA to be deemed to have ceased to be offering its securities to the public;

AND UPON the Applicant representing to the Commission that:

1. The Applicant is an “offering corporation” as defined in the OBCA;
2. The Applicant has no intention to seek public financing by way of an offering of securities; and
3. On November 1, 2019, the Applicant was granted an order (the **November 1, 2019 Order**) by the Nova Scotia Securities Commission that it has ceased to be a reporting issuer in all of the jurisdictions of Canada in accordance with the simplified procedure set out in National Policy 11-206 – *Process for Cease to be a Reporting Issuer Applications*. The representations set out in the November 1, 2019 Order continue to be true.

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

IT IS HEREBY ORDERED by the Commission pursuant to subsection 1(6) of the OBCA that the Applicant be deemed to have ceased to be offering its securities to the public.

DATED this 11th day of November 2019.

“Heather Zordel”
Commissioner
Ontario Securities Commission

“Mary Anne De Monte-Whelan”
Commissioner
Ontario Securities Commission

2.2.3 Callidus Capital Corporation – s.1(6) of the OBCA

Headnote

Applicant deemed to have ceased to be offering its securities to the public under the Business Corporations Act (Ontario).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16 as am., s. 1(6).

**IN THE MATTER OF
THE BUSINESS CORPORATIONS ACT
R.S.O. 1990, c. B.16, AS AMENDED
(the OBCA)**

AND

**IN THE MATTER OF
CALLIDUS CAPITAL CORPORATION
(the Applicant)**

**ORDER
(Subsection 1(6) of the OBCA)**

UPON the application of the Applicant to the Ontario Securities Commission (the **Commission**) for an order pursuant to subsection 1(6) of the OBCA to be deemed to have ceased to be offering its securities to the public;

AND UPON the Applicant representing to the Commission that:

1. The Applicant is an “offering corporation” as defined in the OBCA;
2. The Applicant has no intention to seek public financing by way of an offering of securities; and
3. On November 8, 2019, the Applicant was granted an order (the **November 8, 2019 Order**) pursuant to subparagraph 1(10)(a)(ii) of the *Securities Act* (Ontario) that it is not a reporting issuer in Ontario and is not a reporting issuer or equivalent in any other jurisdiction in Canada in accordance with the simplified procedure set out in National Policy 11-206 – *Process for Cease to be a Reporting Issuer Applications*. The representations set out in the November 8, 2019 Order continue to be true.

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

IT IS HEREBY ORDERED by the Commission, pursuant to subsection 1(6) of the OBCA, that the Applicant is deemed to have ceased to be offering its securities to the public.

DATED this 15th day of November, 2019.

“Craig Hayman”
Commissioner
Ontario Securities Commission

“Lawrence Haber”
Commissioner
Ontario Securities Commission

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
eQube Gaming Limited	05 November 2019	13 November 2019

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
CannTrust Holdings Inc.	15 August 2019	
Voyager Digital (Canada) Ltd.	05 November 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:

iShares Core S&P U.S. Total Market Index ETF ("XUU")

iShares Core MSCI EAFE IMI Index ETF ("XEF")

iShares Core MSCI Emerging Markets IMI Index ETF ("XEC")

iShares Core MSCI All Country World ex Canada Index ETF ("XAW")

iShares Core MSCI US Quality Dividend Index ETF ("XDU")

iShares Core MSCI Global Quality Dividend Index ETF ("XDG")

iShares S&P U.S. Mid-Cap Index ETF ("XMC")

iShares Edge MSCI Min Vol USA Index ETF ("XMU")

iShares Edge MSCI Multifactor USA Index ETF ("XFS")

Principal Regulator - Ontario

Type and Date:

Amendment #3 to Final Long Form Prospectus dated November 14, 2019

Received on November 14, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2878215

Issuer Name:

Dividend Growth Split Corp.

Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus (NI 44-102) dated November 12, 2019

NP 11-202 Receipt dated November 13, 2019

Offering Price and Description:

\$300,000,000 - Preferred Shares and Class A Shares

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2981059

Issuer Name:

Horizons Active A.I. Global Equity ETF

Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Long Form Prospectus dated November 6, 2019

NP 11-202 Receipt dated November 12, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2862187

Issuer Name:

Life & Banc Split Corp.

Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus (NI 44-102) dated November 12, 2019

NP 11-202 Receipt dated November 13, 2019

Offering Price and Description:

\$300,000,000 - Preferred Shares and Class A Shares

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2981052

Issuer Name:

Fidelity Canadian Monthly High Income ETF Fund

Fidelity Global Monthly High Income ETF Fund

Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated Nov 13, 2019

NP 11-202 Preliminary Receipt dated Nov 14, 2019

Offering Price and Description:

Series B units, Series O units and Series F units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2985908

Issuer Name:

Fidelity Canadian Monthly High Income ETF
Fidelity Global Monthly High Income ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Nov 13, 2019
NP 11-202 Preliminary Receipt dated Nov 14, 2019

Offering Price and Description:

Series L units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2985914

Issuer Name:

Fidelity U.S. Growth Opportunities Class
Fidelity U.S. Growth Opportunities Investment Trust
Fidelity U.S. Growth Opportunities Systematic Currency
Hedged Class
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Nov 13, 2019
NP 11-202 Preliminary Receipt dated Nov 14, 2019

Offering Price and Description:

Series P3 shares, Series E3 shares, Series T8 shares,
Series E2 shares, Series P2 shares, Series B shares,
Series F shares, Series F5 shares, Series E1 shares,
Series P1 shares, Series O units, Series T5 shares, Series
A shares, Series S8 shares, Series F8 shares and Series
S5 shares

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2985873

Issuer Name:

NEI Select Income & Growth Portfolio (Series I units)
NEI Select Income & Growth RS Portfolio (Series I units)
NEI Select Balanced RS Portfolio (Series I units)
NEI Select Growth RS Portfolio (Series I units)
NEI Select Income RS Portfolio (I units)
NEI Tactical Yield Portfolio (Series I units)
NEI Jantzi Social Index® Fund (Series O units)
NEI International Equity Fund (Series O units)
NEI U.S. Equity Fund (Series O units)
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
November 8, 2019
NP 11-202 Final Receipt dated Nov 13, 2019

Offering Price and Description:

Series I units and Series O units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2918737

Issuer Name:

BMO Ascent Balanced Portfolio
BMO Ascent Conservative Portfolio
BMO Ascent Equity Growth Portfolio
BMO Ascent Growth Portfolio
BMO Ascent Income Portfolio
BMO Asian Growth and Income Class
BMO Asian Growth and Income Fund
BMO Asset Allocation Fund
BMO Balanced ETF Portfolio
BMO Balanced ETF Portfolio Class
BMO Bond Fund
BMO Canadian Equity Class
BMO Canadian Equity ETF Fund
BMO Canadian Equity Fund
BMO Canadian Large Cap Equity Fund
BMO Canadian Small Cap Equity Fund
BMO Canadian Stock Selection Fund
BMO Concentrated Global Equity Fund
BMO Concentrated U.S. Equity Fund
BMO Conservative ETF Portfolio
BMO Core Bond Fund
BMO Core Plus Bond Fund
BMO Covered Call Canada High Dividend ETF Fund
BMO Covered Call Canadian Banks ETF Fund
BMO Covered Call Europe High Dividend ETF Fund
BMO Covered Call U.S. High Dividend ETF Fund
BMO Crossover Bond Fund
BMO Diversified Income Portfolio
BMO Dividend Class
BMO Dividend Fund
BMO Emerging Markets Bond Fund
BMO Emerging Markets Fund
BMO Equity Growth ETF Portfolio
BMO Equity Growth ETF Portfolio Class
BMO European Fund
BMO Fixed Income ETF Portfolio
BMO Floating Rate Income Fund
BMO Fossil Fuel Free Fund
BMO FundSelect Balanced Portfolio
BMO FundSelect Equity Growth Portfolio
BMO FundSelect Growth Portfolio
BMO FundSelect Income Portfolio
BMO Global Balanced Fund
BMO Global Diversified Fund
BMO Global Dividend Class
BMO Global Dividend Fund
BMO Global Energy Class
BMO Global Equity Class
BMO Global Equity Fund
BMO Global Growth & Income Fund
BMO Global Infrastructure Fund
BMO Global Low Volatility ETF Class
BMO Global Monthly Income Fund
BMO Global Multi-Sector Bond Fund
BMO Global Small Cap Fund
BMO Global Strategic Bond Fund
BMO Greater China Class
BMO Growth & Income Fund
BMO Growth ETF Portfolio
BMO Growth ETF Portfolio Class
BMO Growth Opportunities Fund
BMO Income ETF Portfolio

BMO Income ETF Portfolio Class
BMO International Equity ETF Fund
BMO International Equity Fund
BMO International Value Class
BMO International Value Fund
BMO Japan Fund
BMO LifeStage Plus 2022 Fund
BMO LifeStage Plus 2025 Fund
BMO LifeStage Plus 2026 Fund
BMO LifeStage Plus 2030 Fund
BMO Low Volatility Canadian Equity ETF Fund
BMO Money Market Fund
BMO Monthly Dividend Fund Ltd.
BMO Monthly High Income Fund II
BMO Monthly Income Fund
BMO Mortgage and Short-Term Income Fund
BMO Multi-Factor Equity Fund
BMO North American Dividend Fund
BMO Precious Metals Fund
BMO Preferred Share Fund
BMO Resource Fund
BMO Retirement Balanced Portfolio
BMO Retirement Conservative Portfolio
BMO Retirement Income Portfolio
BMO Risk Reduction Equity Fund
BMO Risk Reduction Fixed Income Fund
BMO SelectClass Balanced Portfolio
BMO SelectClass Equity Growth Portfolio
BMO SelectClass Growth Portfolio
BMO SelectClass Income Portfolio
BMO SelectTrust Balanced Portfolio
BMO SelectTrust Conservative Portfolio
BMO SelectTrust Equity Growth Portfolio
BMO SelectTrust Fixed Income Portfolio
BMO SelectTrust Growth Portfolio
BMO SelectTrust Income Portfolio
BMO SIA Focused Canadian Equity Fund
BMO SIA Focused North American Equity Fund
BMO Tactical Balanced ETF Fund
BMO Tactical Dividend ETF Fund
BMO Tactical Global Asset Allocation ETF Fund
BMO Tactical Global Bond ETF Fund
BMO Tactical Global Equity ETF Fund
BMO Tactical Global Growth ETF Fund
BMO Target Education 2020 Portfolio
BMO Target Education 2025 Portfolio
BMO Target Education 2030 Portfolio
BMO Target Education 2035 Portfolio
BMO Target Education Income Portfolio
BMO U.S. Dividend Fund
BMO U.S. Dollar Balanced Fund
BMO U.S. Dollar Dividend Fund
BMO U.S. Dollar Equity Index Fund
BMO U.S. Dollar Money Market Fund
BMO U.S. Dollar Monthly Income Fund
BMO U.S. Equity Class
BMO U.S. Equity ETF Fund
BMO U.S. Equity Fund
BMO U.S. Equity Plus Fund
BMO U.S. High Yield Bond Fund
BMO U.S. Small Cap Fund
BMO Women in Leadership Fund
BMO World Bond Fund

Principal Regulator – Ontario

Type and Date:

Amendment #2 to Final Annual Information Form dated November 8, 2019

NP 11-202 Final Receipt dated Nov 14, 2019

Offering Price and Description:

N/A

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2898872

Issuer Name:

CI Can-Am Small Cap Corporate Class
CI Global Small Companies Corporate Class
Principal Regulator – Ontario

Type and Date:

Amendment #3 to Final Simplified Prospectus dated
November 12, 2019
NP 11-202 Final Receipt dated Nov 14, 2019

Offering Price and Description:

Class A shares, Class AT8 shares, Class E shares, Class
EF shares, Class EFT8 shares,
Class ET8 shares, Class F shares, Class FT8 shares,
Class I shares, Class IT8 shares,
Class O shares, Class OT8 shares, Class P shares

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2924573

NON-INVESTMENT FUNDS

Issuer Name:

Ag Growth International Inc.
Principal Regulator - Manitoba

Type and Date:

Final Short Form Prospectus dated November 12, 2019
NP 11-202 Receipt dated November 12, 2019

Offering Price and Description:

\$75,000,000.00 - 5.25% Senior Subordinated Unsecured
Debentures
Price: \$1,000 per Debenture

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Raymond James Ltd.
Cormark Securities Inc.
Desjardins Securities Inc.
Laurentian Bank Securities Inc.

Promoter(s):

-

Project #2979951

Issuer Name:

Andlauer Healthcare Group Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 18,
2019
NP 11-202 Preliminary Receipt dated November 18, 2019

Offering Price and Description:

\$150,012,000.00
* Subordinate Voting Shares

Underwriter(s) or Distributor(s):

RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
GMP SECURITIES L.P.
INFOR FINANCIAL INC.
WELLINGTON-ALTUS PRIVATE WEALTH INC.

Promoter(s):

ANDLAUER MANAGEMENT GROUP INC.

Project #2987745

Issuer Name:

Aphria Inc. (formerly, Black Sparrow Capital Corp.)
Principal Regulator - Ontario

Type and Date:

Amendment dated November 13, 2019 to Preliminary Shelf
Prospectus dated August 23, 2019

NP 11-202 Preliminary Receipt dated November 13, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2955437

Issuer Name:

Brookfield Infrastructure Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 13,
2019

NP 11-202 Preliminary Receipt dated November 14, 2019

Offering Price and Description:

32,600,000 Class A Subordinate Voting Shares of
Brookfield Infrastructure Corporation
Up to 46,300,000 Limited Partnership Units of Brookfield
Infrastructure Partners L.P.
(issuable or deliverable upon exchange, redemption or
purchase of Class A Subordinate Voting Shares)

Underwriter(s) or Distributor(s):

-

Promoter(s):

Brookfield Infrastructure Partners L.P.

Project #2986176

Issuer Name:

Brookfield Infrastructure Partners L.P.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 13,
2019

NP 11-202 Preliminary Receipt dated November 14, 2019

Offering Price and Description:

32,600,000 Class A Subordinate Voting Shares of
Brookfield Infrastructure Corporation
Up to 46,300,000 Limited Partnership Units of Brookfield
Infrastructure Partners L.P.
(issuable or deliverable upon exchange, redemption or
purchase of Class A Subordinate Voting Shares)

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2986180

Issuer Name:

Brookfield Renewable Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 14, 2019

NP 11-202 Preliminary Receipt dated November 15, 2019

Offering Price and Description:

44,700,000 Class A Subordinate Voting Shares of Brookfield Renewable Corporation
Up to 77,800,000 Limited Partnership Units of Brookfield Renewable Partners L.P.
(issuable or deliverable upon exchange, redemption or purchase of Class A Subordinate Voting Shares)

Underwriter(s) or Distributor(s):

-

Promoter(s):

Brookfield Renewable Partners L.P.
Project #2987334

Issuer Name:

Brookfield Renewable Partners L.P.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 14, 2019

NP 11-202 Preliminary Receipt dated November 15, 2019

Offering Price and Description:

44,700,000 Class A Subordinate Voting Shares of Brookfield Renewable Corporation
Up to 77,800,000 Limited Partnership Units of Brookfield Renewable Partners L.P.
(issuable or deliverable upon exchange, redemption or purchase of Class A Subordinate Voting Shares)

Underwriter(s) or Distributor(s):

-

Promoter(s):

BROOKFIELD RENEWABLE CORPORATION
BROOKFIELD RENEWABLE PARTNERS L.P.
Project #2987335

Issuer Name:

Firm Capital Property Trust
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated November 18, 2019
Received on November 18, 2019

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2987843

Issuer Name:

Good2Go2 Corp.
Principal Regulator - Ontario

Type and Date:

Final CPC Prospectus dated November 13, 2019
NP 11-202 Receipt dated November 15, 2019

Offering Price and Description:

Offering: \$225,000.00
2,250,000 Common Shares
Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

Haywood Securities Inc.

Promoter(s):

James C. Cassina
Project #2969686

Issuer Name:

InMed Pharmaceuticals Inc.
Principal Regulator - British Columbia

Type and Date:

Final Shelf Prospectus dated November 7, 2019
NP 11-202 Receipt dated November 12, 2019

Offering Price and Description:

\$15,000,000.00
Common Shares
Preferred Shares
Warrants
Subscription Receipts
Debt Securities
Convertible Securities
Rights
Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2976201

Issuer Name:

Katanga Mining Limited
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated November 15, 2019
NP 11-202 Receipt dated November 18, 2019

Offering Price and Description:

C\$7,678,388,000.00 - Offering of Rights to subscribe for 59,292,571,428 Common Shares at a Subscription Price of C\$0.1295 per Common Share

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2983092

Issuer Name:

NexPoint Hospitality Trust
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated November 15, 2019
NP 11-202 Receipt dated November 15, 2019

Offering Price and Description:

US\$500,000,000.00
Units Debt Securities Subscription Receipts Warrants

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2967005

Issuer Name:

Northstar Gold Corp.
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated November 14, 2019
NP 11-202 Receipt dated November 14, 2019

Offering Price and Description:

MINIMUM OFFERING: \$2,500,000.00 (8,333,333
COMMON SHARES)
MAXIMUM OFFERING: \$4,000,000.00 (13,333,333
COMMON SHARES)
PRICE: \$0.30 PER COMMON SHARE

Underwriter(s) or Distributor(s):

HAYWOOD SECURITIES INC.
CANACCORD GENUITY CORP.

Promoter(s):

Brian P. Fowler
John W. Pollock
George W. Pollock

Project #2974453

Issuer Name:

PSI International Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 12,
2019
NP 11-202 Preliminary Receipt dated November 15, 2019

Offering Price and Description:

No Securities are being offered pursuant to this Prospectus

Underwriter(s) or Distributor(s):

-

Promoter(s):

Yeon W. Seol
Project #2986090

Issuer Name:

TGOD Acquisition Corporation
Principal Regulator - British Columbia

Type and Date:

Preliminary Long Form Prospectus dated November 14,
2019

NP 11-202 Preliminary Receipt dated November 15, 2019

Offering Price and Description:

Up to \$3,216,578.00
Up to 6,433,156 Units Issuable upon Exercise of 6,433,156
Warrants

Underwriter(s) or Distributor(s):

-

Promoter(s):

THE GREEN ORGANIC DUTCHMAN HOLDINGS LTD.
Project #2987044

Issuer Name:

Theratechnologies Inc.
Principal Regulator - Quebec

Type and Date:

Final Shelf Prospectus dated November 15, 2019
NP 11-202 Receipt dated November 15, 2019

Offering Price and Description:

US\$150,000,000.00
Common Shares
Preferred Shares
Subscription Receipts
Warrants

Debt Securities

Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2974659

Issuer Name:

Turmalina Metals Corp.
Principal Regulator - British Columbia

Type and Date:

Amendment dated November 7, 2019 to Preliminary Long
Form Prospectus dated August 13, 2019
NP 11-202 Preliminary Receipt dated November 13, 2019

Offering Price and Description:

14,000,000 Common Shares issuable upon deemed
exercise of 14,000,000 outstanding Subscription Receipts

Underwriter(s) or Distributor(s):

-

Promoter(s):

Rohan Wolfe
Francisco Azvedo
Project #2951892

Issuer Name:

Wajax Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated November 14, 2019
NP 11-202 Preliminary Receipt dated November 14, 2019

Offering Price and Description:

\$400,000,000.00
Common Shares
Convertible Securities
Debt Securities
Preferred Shares
Subscription Receipts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2986340

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
THERE IS NOTHING TO REPORT THIS WEEK.			

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 Investment Industry Regulatory Organization of Canada (IIROC) – Notice of Proposed Derivatives Rule Modernization, Stage 1 – Request for Comment

REQUEST FOR COMMENT

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

NOTICE OF PROPOSED DERIVATIVES RULE MODERNIZATION, STAGE 1

IIROC is publishing for public comment proposed amendments to its Dealer Member related plain language rules arising from its derivatives rule modernization project, Stage 1. The stated objectives of the proposed amendments are to:

- ensure its rules continue to be materially harmonized with the equivalent Canadian Securities Administrators requirements as they apply to securities and derivatives;
- more clearly specify which of the core regulatory obligations apply to securities, listed derivatives and over-the-counter derivatives; and
- eliminate inconsistencies in the regulatory treatment of securities, listed derivatives and over-the-counter derivatives, where justified.

Due to the extent and nature of these proposed amendments, IIROC is publishing for public comment in two separate stages:

- Currently, Stage 1 includes all amendments IIROC proposes to make (other than those relating to margin requirements); and
- At a later date, Stage 2 will include proposed amendments relating to the margin requirements.

A copy of the IIROC Notice, including the text of the proposed amendments, is also published on our website at <http://www.osc.gov.on.ca>. The comment period ends on February 19, 2020.

13.2 Marketplaces

13.2.1 Liquidnet Canada – Notice of Proposed Changes

LIQUIDNET CANADA

NOTICE OF PROPOSED CHANGES AND REQUEST FOR COMMENT

Liquidnet Canada is publishing this Notice of Proposed Changes in accordance with the “Process for the Review and Approval of the Information Contained in Form 21-101F2 and the Exhibits Thereto.” Market participants are invited to provide the Commission with comment on the proposed changes.

Comment on the proposed changes should be in writing and submitted by December 23, 2019 to

Market Regulation Branch
Ontario Securities Commission
22nd Floor
20 Queen Street West
Toronto, ON M5H 3S8
Fax : (416) 595-8940
marketregulation@osc.gov.on.ca

and

Thomas Scully
General Counsel
Liquidnet Canada Inc.
498 Seventh Avenue
New York, NY 10018
tscully@liquidnet.com

Comments received will be made public on the OSC website. Upon completion of the Review by OSC staff, and in the absence of any regulatory concerns, notice will be published to confirm the completion of Commission staff’s review and to outline the intended implementation date of the changes.

Any questions regarding the information below should be addressed to:

Jay Lee
Head of Liquidnet Canada
Liquidnet Canada Inc.
79 Wellington Street West – Suite 2403
TD South Tower
Toronto, ON M5K 1K2
jlee@liquidnet.com

Liquidnet Canada proposes to introduce the following changes to the Liquidnet Canada trading system:

1. Changes to existing broker blocks functionality

A. Description of the proposed change

Background

As previously approved by the Commission, IIROC-registered brokers seeking to execute blocks (known as Liquidity Partners or LPs) can send resting orders in Canadian equities to the Liquidnet Canada ATS. LPs may elect whether or not to display their resting orders to matching buy-side contras via the Liquidnet desktop application. If an LP has elected to display its orders, a buy-side participant (known as a Member) with an opposite-side indication to an LP resting order can receive notification of the LP resting order as a broker block opportunity (denoted by a small indicator on the match notification). A broker block notification is only provided to a Member when the limit price specified by the LP for its buy resting order is at or above the mid-price, or when the limit price specified by the LP for its sell resting order is at or below the mid-price. If a notification is provided and the mid-price subsequently moves above the limit price of the LP's buy order, or below the limit price of the LP's sell order, this is indicated in the notification to the Member. Once notified, the Member can choose whether to act on a broker block opportunity by creating a resting order known as a "broker block accept." The minimum broker block execution quantity for Canadian equities is the lesser of 10,000 shares and \$100,000 in value and, currently, all broker block executions occur at the mid-price.

If an LP has elected not to display its resting orders to buy-side contras, the LP's block orders will only execute against other actionable dark orders in the ATS (either other LP orders or buy-side orders). Regardless of whether an LP has elected to display or not, it may transmit resting orders on a firm or conditional basis and the execution fees to LPs are the same in both cases (currently \$0.0020 per share).

Proposed changes

Liquidnet Canada plans to make the following changes to broker blocks functionality:

- LP resting orders displayed to buy-side participants must be firm orders (while non-displayed orders may continue to be either firm or conditional orders);
- Fees charged to LPs for executions resulting from LP resting orders displayed to buy-side contras will be different and higher than fees for executions resulting from non-displayed LP resting orders¹; and
- Buy-side participants will have the option to execute against LP resting orders at a price away from the mid-price, but within the best bid/ask (i.e., below the mid-price in the case of a buy-side sell order or above the mid-price in the case of a buy-side buy order). Buy-side participants may also opt to continue only executing against LP resting orders at the mid-price.

To be clear, with regard to the proposed change permitting buy-side participants to execute against an LP resting order at a price away from the mid-price, Liquidnet Canada will only permit such an execution if the buy-side order is for more than 50 standard trading units or has a value of more than CAD\$100,000, as per UMIR Rule 6.6.²

B. The expected date of implementation

It is expected that the proposed change will be implemented following the later of (i) the date that Liquidnet Canada is notified that the change is approved and (ii) the date all applicable regulatory requirements have been met.

C. Rationale for the proposed change

Liquidnet Canada plans to implement the proposed changes for several reasons. First, Liquidnet Canada's European affiliate – which also chiefly operates in attributed markets – currently employs a similar broker blocks model with the goal of increasing actionable, i.e., firm, liquidity in the Liquidnet marketplace and providing buy-side participants with additional, i.e., non-mid, trading opportunities. Given the similarities in market structure between Canada and Europe, Liquidnet believes that this model is also well-suited to the Canadian market. Second, Liquidnet Canada also believes the proposed increase in fees to LPs associated with displayed orders is appropriate given the unique block liquidity in the Liquidnet Canada ATS only accessible via

¹ Pursuant to Section 3.2(2) of NI 21-101, Liquidnet Canada will separately submit a proposed amendment to Exhibit L to Form 21-101F2 regarding this contemplated fee change. At present, Liquidnet Canada plans to charge LPs \$0.0050 per share for executions resulting from orders displayed to buy-side contras, while the fee to LPs for executions resulting from non-displayed orders would remain at the current rate of \$0.0020 per share.

² Liquidnet Canada will also take into account the approved amendments to UMIR Rule 6.6 (effective February 4, 2020) as per IIROC Notice 19-0134, which add a minimum order value of CAD\$30,000 to the current volume threshold of 50 standard trading units.

displayed LP orders.³ And third, the proposed change will also discourage arbitrage behavior by brokers who may attempt to offer buy-side clients “equivalent” access to Liquidnet at a rate lower than Liquidnet’s standard rate to buy-side firms participating directly on the Liquidnet Canada ATS.

In addition, Liquidnet’s affiliates in both Europe and the United States currently permit buy-side participants – at their option – to execute against LP resting orders at prices away from the mid-price, so the proposed change will further harmonize broker blocks functionality across regions.

D. Expected impact of the proposed change on market structure, subscribers, investors and capital markets

We foresee no adverse impact on market structure, subscribers, investors or the capital markets because the proposed changes should only increase actionable liquidity and trading opportunities in the Liquidnet Canada ATS for buy-side participants, with an associated fee to LPs that reflects the value of the natural block liquidity accessible via displayed LP orders. In this regard, it should also be noted that brokers are not required to send any order flow to a non-displayed marketplace like the Liquidnet Canada ATS, so brokers who may have objections to the proposed changes are free not to participate.

E. Expected impact of the proposed change on Liquidnet Canada’s compliance with Ontario securities law and the requirements for fair access and maintenance of a fair and orderly market

We foresee no adverse impact on Liquidnet Canada’s compliance with Ontario securities laws or to requirements of fair access and the maintenance of a fair and orderly market. With regard to fair access, the proposed changes regarding different fees to LPs for executions resulting from displayed vs. non-displayed LP orders and requiring that all displayed LP orders be firm orders will apply uniformly to an entire class of subscribers, i.e., to all block order flow from LPs, so there will be no discrimination among broker participants. Similarly, the proposed change permitting buy-side participants to execute their block-size orders against LPs at prices other than the mid-price will be available to all buy-side Members, so there are no fair-access concerns with that aspect of the proposed changes.

F. Consultations undertaken in formulating the proposed change, including internal governance process followed

Liquidnet Canada and its affiliates consulted with certain customers before proceeding with the proposed changes. The proposed changes were approved by the management of Liquidnet Canada.

G. Whether the proposed change will require subscribers and vendors to modify their own systems

The proposed change does not constitute a material change to “technology requirements regarding interfacing with or accessing the marketplace” within the meaning of Part 12.3 of NI 21-101 because subscribers and service vendors will not be required to do any significant amount of systems-related development work or testing to enable the proposed changes or fully interact with the Liquidnet Canada ATS as a result of the proposed change. More particularly, the proposed functionality has already been developed, tested and implemented in other jurisdictions, e.g., Europe, so Liquidnet Canada need only make minor back-end changes in order to implement the proposed change for Canada broker blocks.

H. Whether the proposed change would introduce a fee model or feature that currently exists in other markets or jurisdictions

The proposed changes to the broker blocks offering have been implemented by Liquidnet Canada’s European affiliate.

³ Non-displayed orders will generally result in fewer trading opportunities for LPs (and their underlying customers) when compared to displayed orders.

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