The Ontario Securities Commission

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

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Table of Contents

Chapter 1

Notices

1.1 Notices

1.1.1 Notice of Ministerial Approval of Co-Operation Agreement Concerning Innovative Fintech Businesses with the Monetary Authority of Singapore

NOTICE OF MINISTERIAL APPROVAL OF
CO-OPERATION AGREEMENT CONCERNINGINNOVATIVE
FINTECH BUSINESSES WITH THE MONETARY AUTHORITY OF SINGAPORE

On December 15, 2019, the Minister of Finance approved, pursuant to section 143.10 of the *Securities Act* (Ontario), the Co-operation Agreement ("the Agreement") entered into between the Ontario Securities Commission and the Monetary Authority of Singapore ("MAS"), and certain other provincial securities regulators, concerning co-operation and information sharing between authorities regarding their respective innovation functions.

The Agreement provides a comprehensive framework for co-operation and referrals related to the innovation functions which were established through the CSA Regulatory Sandbox initiative and by MAS.

The Agreement came into effect on December 15, 2019. The Agreement was published in the Bulletin on November 14, 2019 at (2019), 42 OSCB 8759.

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1.1.2 CSA Consultation Paper 51-405 – Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers

CSA Consultation Paper 51-405

Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers

January 9, 2020

1. Introduction

On April 6, 2017, the Canadian Securities Administrators (**CSA** or **we**) published a consultation paper[1] to identify and consider areas of securities legislation applicable to non-investment fund reporting issuers that could benefit from a reduction of undue regulatory burden, without compromising investor protection and the efficiency of the capital markets. Enhancing electronic delivery of documents was identified as one area where a broader review may be warranted. Commenters responding to that consultation were generally supportive of developments which would further facilitate electronic delivery of documents. On March 27, 2018, CSA staff published a notice[2] stating that, among other things, a policy initiative will be undertaken in this area.

We recognize that information technology is an important and useful tool in improving communication with investors and are committed to facilitating electronic access to documents where appropriate. Electronic access to documents provides a more cost-efficient, timely and environmentally friendly manner of communicating information to investors than physical delivery.

The CSA are considering whether electronic access should be expanded to reduce the use of paper to fulfil delivery requirements. A possible regulatory framework that has the potential to significantly reduce regulatory burden on issuers and to enhance the accessibility of information for investors is an "access equals delivery" model. Under the model that we are contemplating, delivery of a document is effected by the issuer alerting investors that the document is publicly available on the System for Electronic Document Analysis and Retrieval (**SEDAR**) and the issuer's website. We are considering prioritizing a policy initiative in this area for prospectuses and certain continuous disclosure documents.

An access equals delivery model is consistent with the general evolution of our capital markets, including changes in technology and, in particular, the increased availability and accessibility of information. We note that similar models have been implemented in certain foreign jurisdictions for specific documents.

The purpose of this consultation paper (the **Consultation Paper**) is to provide a forum for discussion on the appropriateness of an access equals delivery model in the Canadian market. We encourage commenters to provide any data and information that could help us evaluate the effects of an access equals delivery model on capital formation and investor protection. We are seeking comments on whether and how such a model may affect investor engagement, positively and negatively, including whether it constitutes an efficient way for investors to access information.

The CSA are publishing this Consultation Paper for a 60-day comment period to solicit views on whether an access equals delivery model should be introduced, the types of documents to which this model should apply and its mechanics. In addition to any general comments that you may have, we also invite comments on the specific questions set out at the end of the Consultation Paper.

The comment period will end on **March 9, 2020**.

While this Consultation Paper focuses on access equals delivery to reduce regulatory burden for issuers, the CSA continue to evaluate other options for enhancing the electronic delivery of documents.

2. Current delivery requirements

Securities legislation requires issuers to deliver various documents to investors. These include prospectuses, rights offering circulars, annual and interim financial statements and related management's discussion and analysis (**MD&A**), proxy-related

[1] CSA Consultation Paper 51-404 *Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers*.
[2] CSA Staff Notice 51-353 *Update on CSA Consultation Paper 51-404 Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers*.

materials and take-over bid and issuer bid circulars that are delivered by issuers or those acting on their behalf, such as underwriters, intermediaries and transfer agents.

In general, securities legislation does not prescribe the medium to be used by issuers for providing information to investors. In most instances, an issuer must "deliver", "send" or "provide" the document. Accordingly, issuers can generally deliver documents to investors in paper or electronic format. National Policy 11-201 *Electronic Delivery of Documents* (**NP 11-201**) provides guidance to securities industry participants that want to use electronic delivery to fulfil delivery requirements. NP 11-201 sets out the CSA's view that delivery requirements can generally be satisfied through electronic delivery if each of the following basic components is met:

- the investor receives notice that the document has been, or will be, delivered electronically;
- the investor has easy access to the document;
- the document received is the same as the document delivered; and
- the issuer has evidence that the document has been delivered.

Although securities legislation does not require that the issuer obtain consent from the investor to use electronic delivery, NP 11-201 acknowledges that the process of obtaining express consent may enable the issuer to achieve some of the basic components of electronic delivery. If an issuer does not obtain express consent, it may be more difficult to demonstrate that the investor had notice of, and access to, the document, and that the investor actually received the document.

The notice-and-access model introduced in 2013 also streamlined delivery requirements for proxy-related materials relating to annual or special shareholders' meetings. Under the notice-and-access model set out in National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* and National Instrument 51-102 *Continuous Disclosure Obligations*, an issuer can deliver proxy-related materials to investors by:

- posting the proxy-related materials on SEDAR and a non-SEDAR website; and
- sending the relevant voting document and a notice informing investors that the proxy-related materials have been posted, with an explanation on how to access the materials.

Although electronic delivery is already permitted, and despite the guidance provided in NP 11-201 and the introduction of the notice-and-access model, some issuers continue to incur significant costs associated with printing and mailing various documents required to be delivered under securities legislation.

3. Access equals delivery

Given widespread access to, and use of, the Internet, we are evaluating whether it is appropriate to adopt an access equals delivery model to satisfy delivery requirements under securities legislation. Our objective is to modernize the way documents are made available to investors and significantly reduce costs associated with the printing and mailing of documents that are currently borne by issuers.

To achieve this objective, a possible regulatory framework could be an access equals delivery model under which, for documents that issuers are required to deliver to investors, providing public electronic access would constitute delivery. Specifically, an issuer is considered to have effected delivery once: (a) the document has been filed on SEDAR; (b) the document has been posted on the issuer's website; and (c) the issuer has issued a news release (filed on SEDAR and posted on its website) indicating that the document is available electronically on SEDAR and the issuer's website and that a paper copy can be obtained from the issuer upon request.

An access equals delivery model could benefit both issuers and investors. This model could further facilitate the communication of information by enabling issuers to reach more investors in a faster, more cost-effective and more environmentally friendly manner. SEDAR and the issuer's website provide ease and convenience of use for investors, allowing them to access and search for information more efficiently than they would otherwise be able to with paper copies of documents.

We note that certain documents are not required to be delivered to investors. For example, a reporting issuer that is not a venture issuer must file an annual information form on SEDAR every year. Another example is timely reporting of a material change to the issuer's affairs, which is publicly disclosed through the issuance and filing of a press release and the filing of a material change report. In both cases, securities legislation does not require the issuer to deliver the document to investors.

The access equals delivery model that we are contemplating could be implemented for various types of documents. As an initial step, we are considering whether to prioritize a policy initiative to implement this model for prospectuses and certain continuous disclosure documents. In our view, implementing an access equals delivery model for these types of documents is achievable and could meaningfully reduce regulatory burden on issuers.

Prospectuses

We note that access equals delivery models have been implemented for prospectuses in the U.S., the European Union and Australia. Please refer to Annex A of this Consultation Paper for further information.

Some stakeholders are supportive of implementing an access equals delivery model for prospectuses. They note that investors are increasingly accessing these documents electronically. They are of the view that this model would reduce costs for issuers and provide convenient and timely access to information for investors.

We recognize the merits of an access equals delivery model for prospectuses. We would have to determine the appropriate regulatory framework, including: (a) how to address investors' withdrawal rights; and (b) whether a news release should be required for both the preliminary prospectus and the final prospectus or whether one news release for an offering is appropriate.

Financial statements and MD&A

Issuers are required to file on SEDAR annual financial statements and interim financial reports (accompanied by the MD&A) within prescribed deadlines. In addition, issuers must either (i) annually send a request form to investors that investors may use to request a paper copy of the issuers' annual financial statements and MD&A, interim financial reports and MD&A, or both, or (ii) send the issuer's annual financial statements to all investors. Issuers are also required to send a copy of their interim financial statements to investors that request them. If an issuer sends financial statements to investors, the issuer must also send the annual or interim MD&A relating to the financial statements.

We note that replacing these requirements with a requirement to issue and file a news release indicating where these documents are electronically available may meaningfully reduce regulatory burden on issuers.

Other types of documents

We are also seeking comments on whether to extend this access equals delivery model to other types of documents, including rights offering materials, proxy-related materials and take-over bid and issuer bid circulars. However, we are cognizant that introducing this model for documents requiring immediate shareholder attention and participation could raise investor protection concerns and could have a negative impact on shareholder engagement. An access equals delivery model for proxy-related materials could also require significant changes to the proxy voting infrastructure, such as operational processes surrounding solicitation and submission of voting instructions.

The access equals delivery model that we are contemplating is not intended to remove the option of having paper copies of documents delivered for those who prefer this option. We acknowledge that issuers are in the best position to choose whether to use access equals delivery considering the needs and preferences of their investors. Issuers could continue to deliver documents in paper or electronic form, based on the investors' standing instructions or upon request.

Some legal aspects of electronic delivery fall outside of the scope of securities legislation. We also recognize that different corporate laws and regulations contain specific delivery requirements. We do not view these potential limitations as roadblocks to soliciting comments and considering amendments under securities legislation. However, if the CSA decide to implement amendments to our rules related to electronic access, these amendments would not eliminate the limitations that exist in other laws and regulations.

4. Consultation questions

We welcome your comments on the issues outlined in this Consultation Paper. In addition, we are also interested in your views and comments on the following specific questions:

1. Do you think it is appropriate to introduce an access equals delivery model into the Canadian market? Please explain why or why not.

2. In your view, what are the potential benefits or limitations of an access equals delivery model? Please explain.

3. Do you agree that the CSA should prioritize a policy initiative focussing on implementing an access equals delivery model for prospectuses and financial statements and related MD&A?

4. If you agree that an access equals delivery model should be implemented for prospectuses:

    a. Should it be the same model for all types of prospectuses (i.e. long-form, short-form, preliminary, final, etc.)?

    b. How should we calculate an investor's withdrawal right period? Should it be calculated from (i) the date on which the issuer issues and files a news release indicating that the final prospectus is available electronically, (ii) the date on which the investor purchases the securities, or (iii) another date? Please explain.

    c. Should a news release be required for both the preliminary prospectus and the final prospectus, or is only one news release for an offering appropriate?

5. For which documents required to be delivered under securities legislation (other than prospectuses and financial statements and related MD&A) should an access equals delivery model be implemented? Are there any investor protection or investor engagement concerns associated with implementing an access equals delivery model for rights offering circulars, proxy-related materials, and/or take-over bid and issuer bid circulars? In your view, would this model require significant changes to the proxy voting infrastructure (e.g. operational processes surrounding solicitation and submission of voting instructions)? Please explain.

6. Under an access equals delivery model, an issuer would be considered to have effected delivery once the document has been filed on SEDAR and posted on the issuer's website.

    a. Should we refer to "website" or a more technologically-neutral concept (e.g. "digital platform") to allow market participants to use other technologies? Please explain.

    b. Should we require all issuers to have a website on which the issuer could post documents?

7. Under an access equals delivery model, an issuer would issue and file a news release indicating that the document is available electronically and that a paper copy can be obtained upon request.

    a. Is a news release sufficient to alert investors that a document is available?

    b. What particular information should be included in the news release?

8. Do you have any other suggested changes to or comments on the access equals delivery model described above? Are there any aspects of this model that are impractical or misaligned with current market practices?

Please submit your comments in writing on or before March 9, 2020. Please send your comments by email in Microsoft Word format.

Please address your submission to all members of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
The Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Please deliver your comments only to the addresses below. Your comments will be distributed to the other participating CSA members.

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The Secretary
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22nd Floor
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318
E-mail: comments@osc.gov.on.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

5. Questions

Please refer your questions to any of the following:

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Annex A

The table below highlights the access equals delivery models implemented in the U.S., the European Union and Australia. Information included in this table is not intended to present a comprehensive review of the law in those jurisdictions.

Jurisdiction	Model
U.S.	In 2005, the SEC adopted an access equals delivery model for final prospectuses in registered offerings based on the assumption that investors have access to the Internet. This model is intended to facilitate effective access to information, while taking into account the advancements in technology and the practicalities of the offering process. Under applicable rules[3], a final prospectus is deemed to have been delivered as long as the final prospectus is filed with the SEC electronically on EDGAR or the issuer makes a good faith and reasonable effort to file the final prospectus within the required timeframe. An underwriter or dealer participating in a registered offering (or an issuer, if no underwriter or dealer is involved) may send, in lieu of the final prospectus, a notice to each purchaser providing that the sale was made pursuant to a registration statement or in a transaction otherwise subject to the prospectus delivery requirements. This notice must be sent not later than two business days after the completion of the sale. Purchasers are permitted, however, to request a copy of the final prospectus.
	In 2015, the SEC adopted an access equals delivery model to ease regulatory burden for small public offerings that are exempted from the registration requirements (Regulation A offerings). The SEC noted that the expanded use of the Internet and continuing technological developments suggest that the delivery requirements for these offerings should be updated in a manner that is consistent with the access equals delivery model adopted in 2005 for final prospectuses in registered offerings. Under applicable rules[4], an issuer may satisfy its final offering circular delivery requirements by filing it electronically on EDGAR. The issuer is, however, required to include a notice in any preliminary offering circular informing potential investors that the issuer will rely on access equals delivery for the final offering circular. The issuer (or participating broker-dealer) is required, not later than two business days after completion of the sale, to provide the purchaser with a copy of the final offering circular or a notice stating that the sale occurred pursuant to a qualified offering circular. This notice must include the URL where the final offering circular may be obtained on EDGAR and contact information sufficient to notify the purchaser where a request for a final offering circular can be sent.
European Union	In 2019, the new European Union prospectus regulation[5] came into force. This regulation recognizes that since the Internet ensures easy access to information, and in order to ensure better accessibility for investors, the prospectus should always be published in an electronic form. In order to ensure investor protection, the obligation to publish a prospectus applies to both equity and non-equity securities offered to the public or admitted to trading on regulated markets. Once approved by the relevant competent authority, the prospectus must be made available to the public by the issuer, the offeror or the person asking for admission to trading on a regulated market before the offer to the public or admission to trading takes place. The prospectus is deemed available to the public when published on the website of the issuer, the offeror or the person asking for admission to trading on a regulated market, on the website of the financial intermediaries placing or selling the securities or on the website of the regulated market where the admission to trading is sought. The prospectus must be published on a dedicated section of the website which is easily accessible when entering the website, and must be downloadable, printable and searchable in electronic format that cannot be modified. All prospectuses approved, or at least a list of those prospectuses with hyperlinks to the dedicated website sections, must be published on the website of the competent authority of the issuer's home member state. Also, each prospectus must be transmitted by the competent authority to the European Securities and Markets Authority (**ESMA**) along with the relevant data enabling its classification. ESMA must provide a centralised storage mechanism of prospectuses allowing access free of charge and appropriate search facilities for the public. Any potential investor may obtain a copy of the prospectus

[3] *Securities Act of 1933*, Rule 172 and Rule 173.
[4] *Securities Act of 1933*, Rule 251 and Rule 254.
[5] *Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC*.

	upon request.
Australia	In March 2014, the Australian Securities & Investments Commission (**ASIC**) published a regulatory guide[6] to facilitate and encourage the use of electronic disclosure, including the Internet (e.g. posting a disclosure document on a website), for making offers of securities. ASIC notes that issuers are increasingly using electronic means to distribute and present disclosure documents (e.g. prospectuses) to investors and recognizes that this has advantages for both issuers offering securities and investors. ASIC explains its interpretation of the offering provisions under corporate law and clarifies that relief is not required for offers of securities using the Internet, provided that the electronic disclosure document has the same content, presentation, and prominence of information as the paper version. ASIC also sets out good practice guidance for the use and distribution of electronic disclosure documents, including ensuring ease of access and providing free paper documents to investors on request. ASIC recognises that there may be other types of web-based platforms that emerge in the future to distribute and present electronic disclosure documents. The guide is principles-based and is intended to apply to current and emerging forms of electronic disclosure documents.

[6] *Regulatory Guide 107 Fundraising: Facilitating electronic offers of securities*.

1.1.3 Notice of Memorandum of Understanding Between the Minister of Finance and the Ontario Securities Commission

NOTICE OF MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MINISTER OF FINANCE
AND THE
ONTARIO SECURITIES COMMISSION

January 9, 2020

Subsection 3.7(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, requires the Commission and the Minister of Finance to enter into a Memorandum of Understanding (MOU) every five years. The purposes of the MOU are to:

- establish the accountability relationships between the Minister of Finance and the Commission;
- clarify the roles and responsibilities of the Minister of Finance, the Chair and CEO of the Commission, the Board, the Executive Director, and the Deputy Minister of Finance; and
- set out the operational, administrative, financial, auditing, communications and reporting arrangements between the Commission and the Ministry of Finance that support the accountability requirements within a framework which recognizes that the Board makes independent regulatory decisions.

In November 2009, the Commission and the Minister of Finance entered into an MOU that was to remain in effect until superseded by a new MOU. On December 19, 2019, the Minister of Finance and the Chair of the Commission executed a new MOU. The new MOU between the Minister of Finance and the Commission is being published today in the Bulletin.

Questions may be referred to:

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General Counsel
General Counsel's Office
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jsinclair@osc.gov.on.ca

MEMORANDUM OF UNDERSTANDING
BETWEEN MINISTER OF FINANCE
AND
ONTARIO SECURITIES COMMISSION

2019

CONTENTS

18. Effective Date, Duration and Periodic Review of the MOU

Signatures
Appendix 1: Summary of Key Reporting Requirements
Appendix 2: Applicable Legislation*
Appendix 3: Applicable Directives*

1. Purpose

a. The purposes of this Memorandum of Understanding (the "MOU") are to:

- Establish the accountability relationships between the Minister of Finance and the Ontario Securities Commission (the "Commission");
- Clarify the roles and responsibilities of the Minister of Finance, the Chair and CEO of the Commission, the Board, the Executive Director, and the Deputy Minister of Finance; and
- Set out the operational, administrative, financial, auditing, communications and reporting arrangements between the Commission and the Ministry of Finance that support the accountability requirements within a framework which recognizes that the Board makes independent regulatory decisions.

b. This MOU should be read together with the *Securities Act and the Commodity Futures Act* and other related legislation. This MOU does not affect, modify or limit the powers of the Commission as set out under any act, regulation or rule, or interfere with the responsibilities of any of its parties as established by law. In case of a conflict between this MOU and any act, regulation or rule, the act, regulation or rule prevails.

c. This MOU replaces the Memorandum of Understanding between the Parties dated November 5, 2009.

2. Definitions

In this MOU:

a. "AAD" means the Treasury Board/Management Board of Cabinet Agencies & Appointments Directive;

b. "Annual Report" means the annual report referred to in article 10.2 of this MOU;

c. "Applicable Directives" means the Government and TB/MBC directives, policies, standards and guidelines that apply to the Commission, as may be amended or replaced from time to time, which are listed in Appendix 3 to this MOU;

d. "Board" means the board of directors of the Commission, composed of the Members of the Commission;

e. "Business Plan" means the Business Plan described under article 10.1 of this MOU;

f. "*CFA*" means the *Commodity Futures Act*, R.S.O. 1990, c. C. 20, as amended;

g. "Chair and CEO" means the Chair and Chief Executive Officer of the Commission;

h. "Commission" means the Ontario Securities Commission

i. "Deputy Minister" means the Deputy Minister of the Ministry of Finance;

j. "Director" has the meaning given to it in the *Securities Act*;

k. "Ethics Executive" means the Ethics Executive of the Commission;

l. *"Executive Council Act"* means the *Executive Council Act*, R.S.O. 1990, c. E. 25, as amended;

m. "Executive Director" means the Executive Director of the Commission;

n. "Fees" means fees, levies, and other charges as may be established by a rule of the Commission;

o. "FIPPA" means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F. 31, as amended;

p. "Fiscal Year" means the 12 months' financial reporting period beginning April 1 and ending March 31 of the following year;

q. "Government" means the Government of Ontario;

r. "Legislative Assembly" means the Legislative Assembly of the Government of Ontario;

s. "MBC" means the Management Board of Cabinet;

t. "Members" means the members of the Commission;

u. "Minister" means the Minister of Finance or such other person who may be designated from time to time as the Minister responsible for the Act in accordance with the *Executive Council Act*;

v. "Ministry" means the Ministry of Finance or any successor to the Ministry;

w. "MOU" means this Memorandum of Understanding signed by the Minister and the Chair and CEO;

x. "OPS" means the Ontario Public Service;

y. "Parties" means the parties to this MOU;

z. "President of Treasury Board" means the President of Treasury Board or such other person who may be designated from time to time under the *Executive Council Act*;

aa. "Province" means the Province of Ontario;

bb. "PSOA" means the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Sched. A, as amended;

cc. "*Securities Act*" means the *Securities Act*, R.S.O. 1990, c. S.5, as amended;

dd. "Statement of Priorities" means the document which sets out the Commission's priorities in connection with the administration of the *Securities Act*;

ee. "Statutes" means the *Securities Act* and the *CFA*, and the regulations and rules thereunder;

ff. "TBS" means the Treasury Board Secretariat;

gg. "TB/MBC" means the Treasury Board/Management Board of Cabinet;

hh. "Tribunal" means the administrative tribunal of the Commission that is assigned the power to conduct hearings under the *Securities Act*; and

ii. "Vice-Chair" means the Vice-Chair of the Commission.

3. Commission's Legal Authority and Mandate

a. The legal authority of the Commission is set out in the Statutes. The Commission also exercises powers and authority under the *Business Corporations Act*, R.S.O. 1990 c. B.16.

b. The Commission is responsible for the administration of the Statutes and for discharging the powers and duties assigned to it under the Statutes and any other relevant legislation.

c. The mandate of the Commission under section 1.1 of the Statutes is to provide protection to investors from unfair, improper or fraudulent practices, to foster fair and efficient capital markets and confidence in capital markets, and to contribute to the stability of the financial system and the reduction of systemic risk.

4. Agency Type and Public Body Status

a. The Commission is classified by the MBC as a regulatory agency with a governing board, and, for purposes of the Procurement Directive, as an "Other Included Entity".

b. The Commission is prescribed as a public body under Ontario Regulation 146/10 under the PSOA.

5. Corporate Status and Crown Agency Status

a. The Commission is a statutory corporation without share capital and is comprised of Members appointed by the Lieutenant Governor in Council.

b. The Commission has the capacity, rights, powers and privileges of a natural person, subject to the limitations placed upon it under the Statutes.

c. The Commission is an agency of her Majesty in right of Ontario (subsection 3(12) of the *Securities Act*).

d. The Commission is not subject to the *Business Corporations Act*, the *Corporations Act*, or the *Corporations Information Act,* except as otherwise provided in the Statutes.

6. Guiding Principles

The Parties agree that they will adhere to the principles set out below in their relationship:

a. The Minister recognizes that the Commission is a statutory body and that the Commission, the Chair and CEO and the Executive Director exercise powers and perform duties in accordance with their respective mandates under the Statutes and other relevant legislation.

b. The regulatory and adjudicative decisions of the Commission must be made and be seen by the public to be made in an independent and impartial manner.

c. The Commission shall operate as an arm's-length agency of the Government.

d. The Parties acknowledge and agree:

i. The Government, through the Ministry, is responsible for setting the policy direction for the regulation of capital markets in Ontario and for the legislative framework implementing such policy;

ii. The Commission plays a meaningful role in the development of the policies of the Government for the regulation of capital markets in Ontario, as well as in the implementation of those policies; and

iii. Ministry and Commission staff will participate in working groups as appropriate and will schedule work in progress meetings on a regular basis.

e. The Commission acknowledges that it is accountable, through the Minister, to the Legislative Assembly in exercising its mandate.

f. As an agency of the Government, the Commission conducts itself according to the management principles and policy priorities of the Government. The management principles include ethical behaviour, accountability, excellence in management, wise use of public funds, high quality service to the public and fairness in the marketplace, and openness and transparency to the extent allowed under the law.

g. The Minister, the Chair and CEO and the Board are committed to a strong and independent Commission that is empowered to fulfill its statutory mandate efficiently and effectively. They share the goal of establishing and maintaining a co-operative relationship that facilitates the efficient and effective administration of the Commission and the fulfillment of its statutory mandate.

h. The Commission and the Ministry agree to avoid duplication of work or services wherever possible.

i. The Commission and the Ministry recognize that the timely exchange of information and effective consultation are essential to discharging their respective responsibilities.

j. The Commission and the Ministry will work together in a mutually respectful manner.

k. The Commission shall conduct its affairs and operations with a focus on ensuring the best interest of Ontario taxpayers and citizens are considered.

l. The Commission shall conduct its affairs with a focus on ensuring red tape burden reduction is a priority for all internal and external processes.

7. Accountability Relationships

7.1 MINISTER

The Minister is accountable:

a. To Cabinet, its committees and the Legislative Assembly for the Commission's fulfilment of its mandate and its compliance with applicable Government policies, and for reporting to the Legislative Assembly on the Commission's affairs;

b. For reporting and responding to TB/MBC on the Commission's performance and compliance with Applicable Directives; and

c. To Cabinet for the performance of the Commission and its compliance with Applicable Directives and broad policy directions.

7.2 CHAIR and CEO

The Chair and CEO is accountable to the Minister:

a. For reporting to the Minister, as requested, on the Commission's activities;

b. For ensuring that significant policy initiatives undertaken by the Commission, and other matters relating to its operations that would be of importance to the Minister are brought to the attention of the Minister in a timely fashion; and

c. For carrying out the roles and responsibilities assigned to the Chair and CEO by the Statutes, the Commission's by-laws, this MOU and Applicable Directives.

7.3 MEMBERS

The Members are accountable, through the Chair and CEO, to the Minister:

a. For the oversight and governance of the Commission;

b. For oversight of the goals, objectives and strategic directions for the Commission to achieve its mandate;

c. For the oversight of the Commission's performance in fulfilling its mandate and adhering to its statutory mandate; and

d. For carrying out the roles and responsibilities assigned to the Members by the Statutes, other relevant legislation, the Commission's by-laws, this MOU and Applicable Directives.

Members perform three distinct roles in support of the Commission's mandate – governance, regulation and adjudication:

a. Governance: Members exercise oversight of the management of the financial and other affairs of the Commission as the Board and attend meetings of the Board and its standing committees;

b. Regulation: Members approve and oversee the implementation of the Commission's regulatory initiatives and priorities, make rules that have the force of law and adopt policies that influence the behaviour of capital market participants; and

c. Adjudication: Members, other than the Chair and CEO, preside over administrative proceedings brought before the Tribunal and act independently of their other roles to ensure hearings are conducted in a fair and impartial manner.

7.4 DEPUTY MINISTER

The Deputy Minister is accountable:

a. To the Secretary of the Cabinet and the Minister for the performance of the Ministry in providing administrative and organizational support to the Commission, if any, and for carrying out the roles and responsibilities assigned to the Deputy Minister by the Minister, this MOU and Applicable Directives; and

b. For attesting to TB/MBC on the Commission's compliance with Applicable Directives.

8. Roles and Responsibilities

8.1 MINISTER

The Minister is responsible for:

a. Reporting and responding to Cabinet, its committees and the Legislative Assembly on the affairs of the Commission;

b. Reporting and responding to TB/MBC on the Commission's performance and on the Commission's compliance with Applicable Directives and TB/MBC policy directions;

c. Reviewing the advice or recommendation of the Chair and CEO on candidates for appointment or reappointment to the Commission;

d. Making recommendations to Cabinet and the Lieutenant Governor in Council for appointments and reappointments to the Commission, pursuant to the process for agency appointments established by legislation and/or by MBC through the AAD;

e. When appropriate or necessary, directing the Commission to consider taking corrective action with respect to the Commission's administration or operations;

f. Determining at any time the need for a review or audit of the Commission, directing the Chair and CEO to undertake reviews of the Commission on a periodic basis, and recommending to TB/MBC any change(s) to the governance or administration of the Commission resulting from any such review or audit;

g. Recommending to TB/MBC, where required, the merger, any change to the mandate, or dissolution of the Commission;

h. Recommending to TB/MBC the powers to be given to, or revoked from, the Commission when a change to the Commission's mandate is being proposed;

i. Reviewing a by-law or rule proposed by the Commission and approving the by-law or rule, rejecting it or returning it to the Commission for further consideration;

j. Receiving, reviewing and approving the Commission's Annual Report and ensuring that the Annual Report is made available to the public in accordance with the Statutes and AAD requirements;

k. Receiving, reviewing and approving the Commission's Business Plan;

l. Receiving and reviewing the Commission's annual Statement of Priorities;

m. Outlining any high-level expectations, key commitments and performance priorities for the Commission at the beginning of the business planning cycle through the Commission mandate letter;

n. Requiring the Commission, in writing, to study and make recommendations in respect of any matter of a general nature under or affecting a statute, regulation or rule that governs Ontario's capital markets and to consider making a rule in respect of a matter specified by the Minister pursuant to section 143.7 of the *Securities Act* and section 72 of the *CFA*;

o. Meeting with the Chair and CEO to discuss issues relating to the fulfilment of the Commission's mandate;

p. Informing the Chair and CEO of the Government's priorities and policy directions for the Commission;

q. Consulting, where appropriate, with the Chair and CEO on significant new directions or when the Government is considering regulatory or legislative changes for the Statutes; and

r. Developing the MOU with the Commission, as well as any amendments to it, and signing the MOU into effect after it has been signed by the Chair and CEO.

8.2 CHAIR AND CEO

The Chair and CEO is responsible for:

a. Providing strategic leadership to the Members and ensuring that the Members meet their responsibilities;

b. Chairing Board and Commission meetings and the management of the agenda for Board and Commission meetings;

c. Monitoring the activities and performance of the Commission and regularly reporting to the Members and to the Minister as requested, and within agreed upon timelines, including an annual letter confirming the Commission's substantial compliance with all applicable legislation, directives, and accounting and financial policies;

d. Informing the Minister, in a timely manner, of significant or contentious matters regarding the Commission that are likely to be of interest to the Minister in the exercise of his or her responsibilities, or that are likely to be raised in the legislature or the media. Such communications shall not include discussion or exchanging of confidential information about current, past or future investigations, cases or proceedings before the Commission, Tribunal, Director or the courts;

e. Providing orientation to the Board with regard to the mandate of the Commission, as well as the Government's priorities and policy directions for the Commission;

f. Ensuring that the Members are advised and informed, as appropriate, about any consultations or communications with the Minister or the Ministry;

g. Keeping the Minister informed of upcoming appointment vacancies and communicating the recommendations of the Chair and CEO on candidates for appointment or re-appointment to the Commission;

h. Complying with information requests made by the Minister or the Deputy Minister in a timely manner;

i. Developing the MOU with the Minister and with Board approval, signing the MOU on behalf of the Commission;

j. Submitting the Commission's Business Plan, budget, Statement of Priorities, Annual Report and financial reports, on behalf of the Commission, to the Minister in accordance with the timelines specified in the Statutes and Applicable Directives;

k. Cooperating with any review or audit of the Commission directed by the Minister or TB/MBC; providing both the Minister and the President of Treasury Board with a copy of every audit report, a copy of the Commission's response to each report, and any recommendation in the report; and advising the Minister annually on any outstanding audit recommendations;

l. Reviewing and approving claims for per diems and travel expenses for Members;

m. Ensuring that conflict of interest rules that the Commission is required to follow, as set out in Ontario Regulation 381/07 under the PSOA, are in place for Members and employees of the Commission;

n. Fulfilling the role of Ethics Executive for Members and Commission employees other than the Chair and CEO, promoting ethical conduct and ensuring that all are informed of their responsibilities under the PSOA and familiar with the ethical rules to which they are subject, including the rules on conflict of interest, political activity and protected disclosure of wrongdoing that apply to the Commission;

o. Advising the Members on the requirements of and the Commission's compliance with the AAD, as well as other Applicable Directives, and Commission by-laws, rules and policies, including annually attesting to the Commission's compliance with mandatory requirements;

p. Overseeing the management of the financial and other affairs of the Commission in accordance with its statutory mandate and Business Plan;

q. Leading and managing the Commission, ensuring both a high level of employee morale and the highest ethical standards of honesty, integrity and impartiality;

r. Keeping the Members informed of the implementation of policy and the operations of the Commission;

s. Exercising any powers and duties delegated to the Chair and CEO by the Board or assigned to the Chair and CEO by the Statutes and related legislation or regulations thereunder;

t. Establishing a governance and risk oversight framework for the Commission to support the Board in fulfilling its responsibilities, including compliance with all applicable legislation, directives, policies, procedures and guidelines;

u. Providing advice to the Deputy Minister, and on behalf of the Commission, on policy matters related to the capital markets regulation;

v. Ensuring that regular updates on rule-making activity are provided to the Ministry, including proposed rules in development but not yet posted for public consultation;

w. Seeking support and advice from the Ministry, as appropriate, on agency management issues;

x. Consulting with the Deputy Minister as needed on matters of mutual importance and on Applicable Directives and Ministry policies;

y. Overseeing the provision of high quality regulatory services that foster competitiveness and innovation in Ontario's capital markets, while protecting investors, fostering fair and efficient capital markets and enhancing confidence in capital markets and contributing to the stability of the financial system and the reduction of systemic risk;

z. Representing the Commission and assuming a leadership role in national regulatory bodies and organizations to help identify and address regulatory priorities, and overseeing the Commission's initiatives with other regulators, including the Canadian Securities Administrators, the Bank of Canada and the Office of the Superintendent of Financial Institutions;

aa. Representing the Commission and assuming a leadership role in international regulatory bodies and organizations to help identify and address international regulatory priorities, and overseeing the Commission's initiatives with international regulators, including the International Organization of Securities Commissions (IOSCO); and

bb. Supporting the Ontario Government in the development of the Capital Markets Regulatory System, providing leadership to the initiative, ensuring that the Commission is well-positioned to continue providing leading expertise with respect to securities regulation and enforcement activities.

8.3 MEMBERS

The Members are responsible for:

a. Establishing the goals, objectives, and strategic directions for the Commission, in accordance with the Commission's mandate as set out in the Statutes, this MOU, the Minister's agency mandate letter, and Government policies as appropriate;

b. Overseeing the management of the affairs of the Commission so as to fulfil its mandate;

c. Subject to the approval of the Minister and pursuant to the Statutes, making by-laws governing a variety of corporate matters;

d. Governing the affairs of the Commission within its mandate as set out in the Statutes, its Business Plan as described in article 10.1 of this MOU, and the policy directions established by the Minister;

e. Overseeing the implementation of actions that support the goals, objectives and strategic directions of the Commission;

f. Directing the development of, and approving, the Commission's Business Plan for submission to the Minister within the timelines agreed upon with the Ministry or in this MOU and in compliance with the AAD;

g. Directing the preparation of, and approving, the Commission's Annual Report for submission to the Minister for approval within the timelines established by the AAD;

h. Monitoring the Commission's activities to ensure they are consistent with the Commission's Business Plan and Board-approved budget;

i. Ensuring that the Commission has controls and processes in place to ensure the Commission uses funds with integrity and honesty, and only in accordance with the Statutes, based on the principle of value for money, and in compliance with applicable legislation and directives;

j. Ensuring that the Commission is governed in an effective and efficient manner according to accepted business and financial practices, and in compliance with applicable by-laws and policies, Applicable Directives and this MOU;

k. Establishing such Board committees and oversight mechanisms as may be required to advise the Members on effective management, governance or accountability procedures for the Commission, or as may be required by statute;

l. Approving the MOU, and any amendments to the MOU, in a timely manner and authorizing the Chair and CEO to sign the MOU, or any amendments to the MOU, on behalf of the Commission;

m. Approving the Commission's reports and reviews that may be requested by the Minister for submission to the Minister within agreed upon timelines;

n. Directing the development of an appropriate risk management framework and a risk management plan and arranging for risk-based reviews and audits of the Commission as needed;

o. Establishing and overseeing performance measures, targets and management systems for monitoring and assessing the Commission's performance;

p. Directing corrective action to address improper functioning or operations of the Commission, if needed;

q. Cooperating with and sharing any relevant information on any risk-based or periodic review directed by the Minister or TB/MBC;

r. Ensuring that stakeholders are consulted, as appropriate, on the Commission's goals, objectives and strategic directions, and on any potential rulemaking or policy initiative by the Commission that will have an impact on Ontario's capital markets;

s. Providing proactive advice to the Minister, through the Chair and CEO, on issues within or affecting the Commission's mandate and operations;

t. Setting performance objectives and remuneration terms linked to these objectives for the Chair and CEO and each Vice-Chair which give due weight to the proper management and use of public resources;

u. Overseeing the proper exercise of any powers and duties delegated by the Commission to the Members or assigned by the Commission to a Director;

v. Evaluating the performance of the Chair and CEO pursuant to performance criteria established by the Members; and

w. Overseeing the development of rules in accordance with the process and the requirements set out in the Statutes and the scope of rule-making authority set out in the Statutes and related legislation.

8.4 EXECUTIVE DIRECTOR AND CHIEF ADMINISTRATIVE OFFICER

Subject to the direction of the Commission, the Executive Director is the chief administrative officer of the Commission. The Executive Director and chief administrative officer of the Commission are responsible and accountable to the Chair and CEO for:

a. Managing the day-to-day financial, analytical, and administrative affairs of the Commission in accordance with the mandate of the Commission, Statutes and related legislation, regulations and rules thereunder, Applicable Directives, accepted business and financial practices, and this MOU;

b. Establishing policies and procedures so that the Commission's funds, and any funds administered by the Commission or the Chair and CEO, are used with integrity and honesty;

c. Providing leadership and management to Commission employees, including human and financial resources management, in accordance with the Minister-approved Business Plan, accepted business and financial practices and standards, the Statutes, legislative requirements and Applicable Directives;

d. Establishing and applying a financial management framework for the Commission in accordance with applicable Ministry/TBS controllership directives, policies and guidelines;

e. Translating the goals, objectives and strategic directions of the Commission into operational plans and activities in accordance with the Minister-approved Business Plan;

f. Carrying out in-year monitoring of the Commission's performance and reporting on results to the Board through the Chair and CEO;

g. Preparing financial statements and reports for approval by the Board;

h. Ensuring appropriate management systems are in place (financial, information technology, human resources) for the effective administration of the Commission;

i. Establishing and applying the Commission's risk management framework and risk management plan, as directed by the Board;

j. Cooperating with any periodic or ad hoc reviews directed by the Minister or TB/MBC;

k. The development, implementation and ongoing monitoring of an effective performance measurement and management system for the Commission under the direction of the Chair and CEO. The performance measures relating to the Commission's goals and priorities once approved by the Commission and in accordance with the AAD, will be forwarded to the Minister for approval;

l. Ensuring that the Commission provides high quality service to the public in carrying out its responsibilities and establishes a process for responding to complaints from the public. The Commission's process for responding to complaints about the quality of services is separate from any statutory provisions about re-consideration, appeals, etc. of the Commission's adjudicative or regulatory decisions;

m. Ensuring that documents and reports are prepared as requested by the Board including corporate plans and budgets, business plans and quarterly reports; and

n. Ensuring that documentation and proper controls are maintained to support expenditures and keep track of material variances between projected and actual expenditures.

8.5 DEPUTY MINISTER

The Deputy Minister is responsible for:

a. Advising and assisting the Minister in fulfilling ministerial responsibilities for the Commission;

b. Providing advice and assistance to the Minister on the direction and development of Government policy for the regulation of capital markets in Ontario and on the legislative framework implementing such policy;

c. Monitoring the activities of the Commission on behalf of the Minister to ensure that its mandate is being fulfilled, its performance is satisfactory, and it is acting in accordance with all applicable legislation and all Applicable Directives;

d. Facilitating regular briefings and consultations between the Chair and the Minister, and between the Ministry staff and the agency staff as needed;

e. Undertaking, on behalf of the Minister, assessments of the operation of the Commission and whether or not it is fulfilling its legislative mandate, including mandate reviews required under the AAD, and identifying any need for corrective action and recommending to the Minister ways to resolve any issues that have been identified;

f. Supporting the Minister in reviewing the performance targets, measures and results of the Commission;

g. Advising the Minister on the requirements of the AAD and other Applicable Directives that apply to the Commission;

h. Ensuring adequate, ongoing oversight of the Commission, including appropriate reporting and coordination;

i. Attesting to TB/MBC on the Commission's compliance with the mandatory accountability requirements set out in legislation, the AAD and other Applicable Directives;

j. Ensuring that the Ministry and the Commission have the capacity and systems in place for ongoing risk-based management;

k. Reviewing and assessing the Commission's Business Plan and other reports, and advising the Minister on matters submitted to the Minister for review or approval;

l. Recommending to the Minister, as may be necessary, the evaluation or review, including a risk-based review, of the Commission or any of its programs, or changes to the management framework or operations of the Commission, and undertaking or cooperating with such reviews as may be directed by the Minister or TB/MBC;

m. Ensuring that the Commission receives such information and assistance as required or requested to meet its responsibilities under the Statutes, other relevant legislation, regulations and rules, Applicable Directives, and this MOU;

n. Meeting with the Chair and CEO as often as needed or as directed by the Minister to discuss matters of mutual importance and issues relating to the effective discharge of the Commission's mandate and the efficient operation of the Commission;

o. Consulting with the Chair and CEO on policy development as appropriate; and

p. Ensuring that, when the Ministry is notified of changes to TB/MBC directives that may apply to the Commission, or of changes to Applicable Directives and policy directions, the Commission is made aware of these changes.

9. Ethical Framework

a. The Members, the Chair and CEO and Commission employees shall follow the conflict of interest rules established under the PSOA, which are set out in Ontario Regulation 381/07 (Conflict of Interest Rules for Public Servants (Ministry) and Former Public Servants (Ministry)), made under the PSOA. All Directors and employees of the Commission are subject to the conflict of interest rules set out under the PSOA and the AAD.

b. Members shall not use any information gained as a result of their appointment to or membership of the Commission for personal gain or benefit.

c. The Chair and CEO, as the Ethics Executive for the Commission, is responsible for ensuring that Members and staff of the Commission are informed of, and held accountable to, the ethical rules to which they are subject, including the rules on conflict of interest, political activity and protected disclosure of wrongdoing that apply to the Commission.

10. Reporting Requirements

10.1 BUSINESS PLAN

a. The Business Plan shall cover, at a minimum, the Commission's next three fiscal years.

b. The Board shall ensure that the Commission's Business Plan:

i. Includes a system of performance measures for the Commission and a system of reporting on the achievement of objectives set out in the Business Plan;

ii. Includes a risk assessment and risk management plan to assist the Ministry in developing its risk assessment and risk management plan information in accordance with the requirements of the AAD;

iii. Sets out projected revenues of the Commission and their sources;

iv. Sets out capital and operating expenditures of the Commission; and

v. Sets out how the Commission's activities are aligned with any Government and Ministry policy objectives provided to the Commission.

c. The Board shall ensure that the Commission's Business Plan meets the requirements of the AAD and any other requirements set out in this MOU.

d. Prior to submitting the Business Plan to the Minister, the Commission shall first submit its Business Plan to the Ministry's Chief Administrative Officer or designated equivalent at least three months before the start of the Commission's fiscal year. Senior Commission employees and senior Ministry staff shall discuss the contents of the Business Plan in respect of the alignment of the Commission's key initiatives, as identified in the

Business Plan, with the Government's policy directions, performance standards, and the plan's compliance with the AAD.

e. Ministry staff shall exercise due diligence in their review of the Commission's Business Plan prior to making any recommendation for approval by the Minister. Ministry staff may request additional information and analysis from the Commission, as necessary, for the purpose of this review.

f. The Minister will review the Commission's Business Plan and will advise the Board whether or not he/she concurs with the directions proposed by the Commission. The Board will reconsider the Business Plan accordingly if required based on the Minister's comments and direction. A Business Plan is only to be considered valid once the Minister has approved the plan and the approval has been expressed in writing.

g. In addition, the Minister or TB/MBC may require the Board to submit the Commission's Business Plan to TB/MBC for review at any time.

h. The Chair and CEO will ensure that the Commission's Minister-approved Business Plan is made available to the public in an accessible format on the Commission's website in compliance with AAD requirements.

i. The Commission shall include a Statement of Priorities in its Business Plan. The statement of priorities shall set out the proposed priorities of the Commission in connection with its responsibilities under the Statutes and related legislation, and the rules and regulations thereunder. The Commission shall consult with the Ministry and with participants in capital markets on its proposed Statement of Priorities.

10.2 ANNUAL REPORT

a. The Chair and CEO, on behalf of the Board, is responsible for ensuring that the Commission's Annual Report, including its audited financial statements, is prepared and submitted to the Minister for approval, and following approval is publicly posted, in accordance with the requirements set out in the AAD and the *Securities Act*.

b. The Chair and CEO shall ensure that the Annual Report fulfils any requirements set out in Applicable Directives and this MOU.

c. Ministry staff shall exercise due diligence in their review of the Annual Report prior to making any recommendation for approval by the Minister. Ministry staff may request reasonable additional information and analysis from the Commission, as necessary, for the purpose of this review.

10.3 RULE-MAKING

a. The Commission shall provide the Ministry with regular and timely overviews of the Commission's rule-making activity, specifying:

   i. Rules with the Minister for review and decision, pursuant to section 143.3 of the *Securities Act* and section 68 of the *CFA*;

   ii. Rules that have completed their public consultation period and are expected to be delivered for the Minister's review and decision;

   iii. Rules published for public comment, pursuant to section 143.2 of the *Securities Act* and section 67 of the *CFA*; and

   iv. Rules expected to be published for public comment within the next 180 days.

b. The Commission shall, in deciding upon the need for a proposed rule, consider purposes of the Statute under which the rule would be made, along with the qualitative and quantitative analysis of the anticipated costs and benefits.

c. At least 30 days prior to the proposed date of publication of a proposed rule for public comment, unless the rule is urgent, the Commission shall provide the Ministry with a draft of the proposed rule and supporting information including: a summary of the reasons for making the rule, a summary of consultation, if any, undertaken during the development of the rule prior to its publication for comment, and a summary of the impact of the expected rule.

   i. If any material amendment is subsequently made to the proposed rule, the Commission shall as soon as practicable provide the Ministry with a copy of the amended rule and a reason for the amendment, including any stakeholder feedback that led to the amendment.

ii. At the request of the Minister and/or the Deputy Minister, the Chair and CEO shall make a presentation on the proposed rule.

d. The Ministry may provide the Commission with written questions, comments and suggested revisions in respect of a proposed rule. The Ministry shall provide its questions, comments and suggested changes within 30 days of receiving a copy of the proposed rule and supporting information, unless the Ministry requires additional time to review the proposed rule, in which case the Ministry shall inform the Commission of when the Ministry will be able to provide the Commission with its questions, comments and suggested revisions. The Commission shall respond to the Ministry's questions and comments and consider the Ministry's suggested revisions to the proposed rule.

e. Subject to article 10.3.d., in the case of a rule other than a Fee rule or an urgent rule, the Commission may publish the proposed rule for public comment if, after 30 days have elapsed from the delivery to the Ministry of the draft proposed rule and supporting information, the Minister or the Deputy Minister has not objected to the draft of the proposed rule or the Ministry has not requested additional time to review the proposed rule.

f. In the case of a Fee rule, the Commission shall not publish the proposed rule for public comment without consulting with the Deputy Minister or the Minister.

g. If the Commission makes any material changes to the rule after the public comment period such that a notice of the proposed changes is required under subsection 143.2(7) of the *Securities Act* or subsection 67(7) of the *CFA*, the Commission shall, at least two weeks prior to the proposed date of publication of the revised rule for public comment, notify the Ministry of the proposed date of publication for the second comment period and provide the Ministry with a copy of the draft changes to the rule and the notice.

h. The Commission shall, when delivering a rule to the Minister in accordance with section 143.3 of the *Securities Act* or section 68 of the *CFA*, provide the Minister with details of the Commission's response to the significant issues and concerns brought to the attention of the Commission during the comment periods.

i. The Commission shall, in its notice of consultations concerning a proposed rule, acknowledge that the Minister's statutory period for review and approval of the rule is 60 days.

j. In the case of an urgent rule, the preceding provisions of article 10.3 do not apply.

10.4 OTHER REPORTS

The Chair and CEO is responsible, on behalf of the Board for:

a. Ensuring that the reports and documents set out in Appendix 1 to this MOU are submitted for review and approval by the Minister and, where applicable, subsequently published in a timely manner, in accordance with any timelines prescribed by the Statutes, a regulation, the AAD or otherwise set out in Appendix 1; and

b. Supplying specific data and other information, at the request of the Minister or the Deputy Minister, that may be required from time to time for the purpose of the Ministry's administration.

11. Public Posting Requirements

a. The Commission, through the Chair and CEO acting on behalf of the Board, will ensure that the Business Plan, the Annual Report, the agency mandate letter, this MOU and any letter of affirmation, and any Statement of Priorities are posted in an accessible format on the Commission's website, in accordance with any timelines required by legislation or the AAD, where applicable.

b. Posted governance documents should not disclose: personal information, sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information, trade secrets or scientific information, information that would prejudice the financial or commercial interests of the Commission in the marketplace, and information that would otherwise pose a risk to the security of the facilities and/or operations of the Commission.

c. The Commission, through the Chair and CEO acting on behalf of the Board, will ensure that the expense information for Members and senior management staff is posted on the Commission website, in accordance with the requirements of the *Travel, Meal and Hospitality Expenses Directive*.

d. The Commission, through the Chair and CEO on behalf of the Board, will ensure that rules and proposed rules are posted in accordance with the Statutes.

e. The Commission, through the Chair and CEO acting on behalf of the Board, will ensure that any other applicable public posting requirements are met.

12. Communications and Issues Management

The parties to this MOU recognize that the timely exchange of information on the operations and administration of the Commission is essential for the Minister to meet his/her responsibilities for reporting and responding to the Legislative Assembly on the affairs of the Commission. The parties also recognize that it is essential for the Chair and CEO, on behalf of the Board, to be kept informed of Government initiatives and policy directions that may affect the Commission's mandate and functions. The parties therefore agree that:

a. Despite any other section of this MOU, communications shall not include discussion or exchanging of confidential information between the Commission personnel and the Minister, Deputy Minister or Ministry staff about current, past or future investigations, cases or proceedings before the Commission, the Director, or the courts;

b. The Ministry of Finance and the Commission have established an information sharing protocol under which the Commission does not share information relating to securities regulatory investigations or proceedings except in accordance with the protocol and the *Securities Act*. In addition to the protocol, inquiries received by the Minister's office regarding investigations, cases or proceedings before the Commission or the courts are re-directed to the Commission. Any response made by the Minister's office to the inquiring party will indicate that the inquiry has been forwarded to the Commission and that the Minister cannot interfere with an enforcement investigation or proceeding;

c. The Chair and CEO will keep the Minister advised, in a timely manner, of all planned events, significant developments or issues in Ontario's capital markets and any contentious matters, that may concern or could be reasonably expected to concern the Minister in the exercise of his/her responsibilities;

d. The Minister will consult with the Chair and CEO in a timely manner, as appropriate, on Government policy initiatives, directives and legislation being considered by the Government that may impact on the Commission's mandate or functions, or would otherwise have a significant impact on the Commission;

e. The Minister and the Chair and CEO will consult with each other on significant public communication strategies and publications. They will keep each other informed as appropriate of the results of stakeholder and other public consultations and discussions;

f. The Minister and the Chair and CEO will meet at least annually, or as requested by either the Minister or the Chair, to discuss issues relating to the fulfillment of the Commission's mandate;

g. The Deputy Minister, or the Deputy Minister's representative, and the Chair and CEO will meet as requested by either party, to discuss issues of mutual interest to the Ministry and the Commission, and issues relating to the delivery of the Commission's mandate and the efficient operation of the Commission. The Deputy Minister and the Chair and CEO shall provide timely information and advice to each other concerning significant matters affecting the Commission's management or operations; and

h. Senior Ministry staff and senior Commission employees shall meet, as requested by either party, to exchange information and collaborate on policy development and implementation.

13. Administrative Arrangements

13.1 APPLICABLE DIRECTIVES

a. The Chair and CEO, on behalf of the Board, is responsible for ensuring that the Commission operates in accordance with all Applicable Directives, as well as applicable Ministry financial and administrative policies and procedures.

b. When the Ministry is notified of amendments or additions to directives, policies and guidelines that apply to the Commission, the Ministry will inform the Commission in a timely manner.

c. When the Commission requests a list of all applicable directives it is subject to, Ministry staff shall provide a full comprehensive list of the most recent versions in a timely manner.

13.2 ADMINISTRATIVE AND ORGANIZATIONAL SUPPORT SERVICES

a. The Commission will be responsible for all administrative services including human resource support services, financial, administration and payroll processing, training, staff development and information technology development and operations support.

b. The Commission may participate in Government-wide shared services or administrative arrangements, where appropriate.

c. The Commission is responsible for the provision of its own legal services but may, where mutually agreed upon in accordance with a memorandum of understanding established between the Commission and the Ministry of the Attorney General ("MAG"), use legal services provided by MAG.

13.3 AGREEMENTS WITH THIRD PARTIES

a. The Commission shall submit, to the Minister for approval, a copy of every agreement, memorandum of understanding or arrangement between the Commission and,

I. another securities or financial regulatory authority;

II. any self-regulatory body or organization; or

III. any jurisdiction,

in accordance with subsections 143.10 of the *Securities Act* and 74(1) of the *CFA*.

13.4 CREATION, COLLECTION, MAINTENANCE AND DISPOSITION OF RECORDS

a. The Board is responsible for ensuring that a system is in place for the creation, collection, maintenance and disposal of records.

b. The Board, through the Chair and CEO, is responsible for ensuring that the appropriate oversight framework is in place in order to ensure that the Commission complies with all Government legislation, regulations, directives and policies related to information and records management.

c. The Chair and CEO and the Board shall protect the legal, financial and other interests of the Commission by implementing reasonable measures to ensure the ongoing viability, integrity, preservation and security of all official records in its custody or control, including records created, commissioned or acquired by the Commission. This includes, but is not limited to, all electronic records, such as emails, information posted on the Commission's website(s), database data sets, and all records stored on personal computers and shared drives.

d. The Chair and CEO is responsible for ensuring measures are implemented requiring the Commission's employees to create full, accurate and reliable records that document and support significant business transactions, decisions, events, policies and programs.

e. The Chair and CEO is responsible for ensuring that the Commission complies with the *Archives and Recordkeeping Act, 2006*, S.O. 2006, Chapter 34, Schedule A.

13.5 INTELLECTUAL PROPERTY

a. The Chair and CEO is responsible for ensuring that the legal, financial and other interests of the Government related to intellectual property are protected in any contract that the Commission may enter into with a third-party that involves the creation of intellectual property.

13.6 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

a. The Chair and CEO and the Minister acknowledge that the Commission is a designated institution bound to follow the requirements set out in the *Freedom of Information and Protection of Privacy Act* (FIPPA) in relation to the collection, retention, security, use, access, disclosure, distribution and disposal of records.

b. The Minister is the institution head for the purposes of the FIPPA.

c. The Commission shall respond to access requests and privacy complaints and shall fulfil all requirements under FIPPA with support from the Ministry of Finance FIPPA Coordinator.

13.7 SERVICE STANDARDS

a. The Commission shall establish a formal process for responding to complaints about the quality of services received from members of the public and stakeholders that is consistent, as appropriate, with the Government's service quality standards.

b. The Commission's process for responding to complaints about the quality of services is separate from any statutory provisions about re-consideration or appeals of the Commission's regulatory decisions.

c. The Commission's Business Plan will include performance standards and measures for client service and for responding to complaints received from members of the public and stakeholders about the quality of services received from the Commission.

d. The Commission shall comply with the *French Language Services Act* and the *Accessibility for Ontarians with Disabilities Act, 2005*.

13.8 PROCUREMENT ARRANGEMENTS

a. The Commission is considered an "Other Included Entity" under the Procurement Directive and shall comply with its applicable obligations.

b. Any relevant by-laws made by the Commission shall be in accordance with the Commission's status as an "Other Included Entity" under the Procurement Directive.

c. Any procurement policy established by the Commission shall be in compliance with the principles and applicable requirements of the Procurement Directive.

13.9 INFORMATION AND INFORMATION TECHNOLOGY (I&IT)

a. The Commission is responsible for establishing internal I&IT policies and standards that align with OPS I&IT directives, policies and standards, and reflect the Commission's governance structure.

b. The Commission is responsible for the provision of its own information technology (IT) services. The Commission is responsible for telephony services, hardware, software, IT business continuity and disaster recovery planning, cybersecurity, and IT-related staff training.

c. The Commission does not use the OPS IT infrastructure, telephony or IT services, with the exception of data centre facilities and services as may be agreed with the Ministry of Government and Consumer Services or an OPS I&IT cluster.

d. The Commission effectively governs technical architecture, applies corporate risk oversight to its IT services and adheres to OPS project management frameworks and methodologies as appropriate. Standing and steering committees are established for all projects, as appropriate, in the opinion of the Chair and CEO or their delegate.

14. Financial Arrangements

14.1 GENERAL

a. All financial procedures for the Commission shall be in accordance with approved financial management by-laws of the Commission and applicable TB/MBC, Government and Ministry directives and policies.

b. The Minister must approve terms and conditions of any short-term (up to two years) borrowing by the Commission (*Securities Act*, s. 3.3(2)).

c. The Commission shall not invest funds or manage financial risks unless the activity is authorized by a by-law of the Commission and the by-law is approved by the Minister in accordance with the *Securities Act*.

d. Pursuant to Section 28 of the *Financial Administration Act*, the Commission shall not enter into any financial arrangement or commitment, guarantee, indemnity or similar transaction that would increase, directly or indirectly, the indebtedness or contingent liabilities of the Government without the written approval of the Minister or delegate or as otherwise permitted under the *Financial Administration Act*.

e. The Commission will maintain, in a manner consistent with generally accepted accounting principles, proper and complete financial records.

14.2 FUNDING

a. The operations of the Commission are funded by Fees collected from market participants and details regarding the Commission's authority with respect to the Fees and revenue it collects are set out in section 3.4 of the *Securities Act;* any authorized borrowing by the Commission to offset an unfunded or unexpected expense will eventually be recovered by the Commission through Fees collected from Ontario's capital markets participants as set forth in the Commission's budget.

b. The Commission may budget over a multi-year cycle.

c. The Ministry acknowledges that the Commission will use various Fees to fund its oversight of the Ontario's capital markets.

d. Rules governing Fees should reflect the budgeted expenses and expenditures of regulation and the reasonable cost of the Commission's operations.

e. Fees shall be examined regularly and should be adjusted as appropriate based on any unanticipated surplus or deficit during the Commission's budget cycle and subject to funding of any contingency reserve amount provided for in the Commission's budget.

14.3 FINANCIAL REPORTS

a. The Chair and CEO, on behalf of the Board, will provide to the Minister audited annual financial statements for the Commission and will include them as part of the Commission's Annual Report. The statements will be provided in a format that is in accordance with the accounting policies issued by the Province's Office of the Provincial Controller Division.

b. The Commission will submit its salary information to the Minister and/or the President of the Treasury Board, through the Ministry, in accordance with the *Public Sector Salary Disclosure Act, 1996*.

14.4 TAXATION STATUS: HARMONIZED SALES TAX (HST)

a. The Commission is responsible for complying with its obligations as a supplier under the federal *Excise Tax Act* to collect and remit HST in respect of any taxable supplies made by it.

b. The Commission is responsible for paying HST where applicable, in accordance with the federal *Excise Tax Act*.

c. The Commission is listed on Schedule "A" of the Canada-Ontario Reciprocal Taxation Agreement. Under the Canada-Ontario Reciprocal Taxation Agreement, the Commission is entitled to claim HST government rebates in respect of any HST paid by the agency to suppliers, subject to any restrictions specified by Finance Canada.

d. The agency will not claim an HST government rebate in respect of tax for which it has claimed a refund, input tax credit or other rebate under the *Excise Tax Act* (Canada).

e. The Commission is responsible for providing the Ministry or the Canada Revenue Agency, upon request, with any information necessary to determine the amount of an HST rebate.

15. Audit and Review Arrangements

15.1 AUDITS

a. The Commission is subject to periodic review and value-for-money audit by the Auditor General of Ontario under the *Auditor General Act* or by the Ontario Internal Audit Division of Treasury Board Secretariat.

b. The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by the Ministry's Audit Committee or by the Corporate Audit Committee.

c. The Chair and CEO, on behalf of the Board, may request an external audit of the financial transactions or management controls of the Commission, at the Commission's expense.

d. Regardless of any previous or annual external audit, the Minister may direct that the Commission be audited at any time.

e. The Chair and CEO, as well as the Board, shall cooperate in any audit of the Commission.

f. The Commission shall promptly provide a copy of every report from any audit referred to above to the Minister. The Commission shall also provide a copy of its response to the audit report and any recommendations therein.

g. The Chair and CEO shall advise the Minister annually on any outstanding audit recommendations.

15.2 FINANCIAL STATEMENTS

a. Pursuant to the *Securities Act*, the Commission shall prepare financial statements according to generally accepted accounting principles. The financial statements must present the financial position, results of operations and changes in the financial position of the Commission for its most recently completed financial year.

b. The Commission shall appoint one or more auditors licensed under the *Public Accounting Act, 2004* or the Auditor General of Ontario to audit the financial statements of the Commission for each financial year.

c. The Chair and CEO shall provide the Minister with a copy of any report from an audit of the Commission conducted pursuant to paragraph 15.2(b) of this MOU. The Chair shall have an opportunity to comment on any audit report that is submitted to the Minister or Management Board prior to such submission.

15.3 OTHER REVIEWS

a. The Commission is subject to periodic review initiated at the discretion and direction of TB/MBC or the Minister. The review may cover such matters relating to the Commission that are determined by TB/MBC or the Minister, and may include the mandate, powers, governance structure and/or operations of the Commission.

b. In requiring a periodic review, the Minister or TB/MBC shall determine the timing and responsibility for conducting the review, the roles of the Chair and CEO, the Board and the Deputy Minister, and how any other persons or entities are involved.

c. A mandate review of the Commission will be conducted at least once every seven years.

d. The Minister will consult the Chair and CEO, on behalf of the Board, as appropriate during any such review.

e. The Chair and CEO, as well as the Board, will cooperate in any review.

16. Appointments

16.1 APPOINTMENTS

a. The Chair and CEO is designated by the Lieutenant Governor in Council on the recommendation of the Minister for the term specified by the Lieutenant Governor in Council, which must not exceed his or her term as a Member.

b. Members are appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

c. The maximum number of Members as set out in the *Securities Act* is 16.

16.2 REMUNERATION

a. Remuneration for Members, including the Chair and CEO, is set by the Commission's by-laws that are subject to the approval of the Minister.

b. Members, including the Chair and CEO, shall be reimbursed for reasonable expenses incurred in carrying out their duties in accordance with the *Travel, Meal and Hospitality Expenses Directive*.

c. Travel expenses of Members must comply with the *Travel, Meal and Hospitality Expenses Directive*.

16.3 COMMISSION EMPLOYEES

a. Commission employees are accountable to the Chair and CEO and delegates of the Chair and CEO. Employees of the Commission are public servants under the PSOA.

b. The Commission is a public body for the purposes of the PSOA and public servants who work in the Commission are subject to those parts of the PSOA that establish a conflict of interest framework, provisions relating to political activity, and the mechanisms for wrongdoing in the public service. Employees of the Commission are public servants under the PSOA and are subject only to those provisions described above.

17. Risk Management, Liability Protection and Insurance

17.1 RISK MANAGEMENT

a. The Commission is to evaluate and manage risk in accordance with the requirements of the AAD.

b. The Commission shall ensure that the risks it faces are dealt with in an appropriate manner.

17.2 IMMUNITY

a. Pursuant to the *Securities Act*, no action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any employee or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under Ontario securities law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

b. Pursuant to the *CFA*, no action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any employee or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under Ontario commodity futures law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

17.3 INSURANCE

a. The Commission is not covered under the Province's Protection Program and will purchase appropriate insurance including but not limited to Commercial General Liability insurance. The Commission will, upon request, provide the Ministry with proof of such insurance.

18. Effective Date, Duration and Periodic Review of the MOU

a. This MOU becomes effective on the date it is signed by the Minister as the last party to execute it ("Original Effective Date") and continues in effect until it is revoked or replaced by a subsequent MOU signed by the parties.

b. A copy of the signed MOU and any successor MOU must be provided to the Secretary, TB/MBC.

c. Upon a change in the Minister or Chair and CEO, both parties must affirm by letter that this MOU will continue in force without a review (and attach the signed letter to the MOU); or alternatively, the parties may agree to revise it and sign a new MOU; within six months of the change.

d. A copy of the letter of affirmation, or a new MOU between the Minister and the Commission must be provided to the Secretary, TB/MBC within six months of the new signatory or signatories' commencement.

e. Either the Minister or the Chair and CEO, on behalf of the Board, may initiate a review of this MOU by written request to the other.

f. If either of the parties deems it expedient to amend this MOU, they may do so only in writing. Any amendment shall only be effective after approval by the parties.

g. A full review and replacement of this MOU will be conducted promptly in the event of a significant change to the Commission's mandate, powers or governance structure as a result of an amendment to the Act or any other applicable legislation.

h. The *Securities Act* requires that every 5 years the Commission and the Minister shall enter into an MOU setting out:

    a. The respective roles and responsibilities of the Minister and the Chair and CEO of the Commission;

    b. The accountability relationship between the Commission and the Minister;

c. The responsibility of the Commission to provide to the Minister business plans, operational budgets and plans for proposed significant changes in the operations or activities of the Commission; and

d. Any other matter that the Minister may require

Signatures

"Maureen Jensen"	December 19, 2019
Chair and CEO Ontario Securities Commission	Date
"Rod Phillips"	December 19, 2019
The Honourable Rod Phillips Minister of Finance	Date

Appendix 1: Summary of Key Reporting Requirements

REPORT / DOCUMENT	DUE DATE	RESPONSIBLE OFFICIALS
Business Plan	Submitted annually	Chair and CEO (prepares) Board (approves) Chair and CEO (provides to Minister)
Annual Report	Submitted annually	Chair and CEO (prepares) Board (approves) Chair and CEO (provides to Minister)
Statement of Priorities	Submitted annually	Chair and CEO (prepares) Commission (approves) Chair and CEO (provides to Minister)
Audited Financial Statements Annual Financial Reports	Annually	Chair and CEO (prepares) Board (approves financial reports)
Memorandum of Understanding	Reviewed at least once every 5 years	Board (approves) Chair and CEO (signs and provides to Minister)
Public Sector Salary Disclosure (PSSD)	Annually	Chair and CEO (provides to Minister)
Attestation of Compliance with Legislation and Applicable Directives	Annually	Chair and CEO attests Chair and CEO (provides letter to Minister)
Procurement Activity Report	Annually	Chair and CEO (provides to Deputy Minister)
Audit Reports	Within 7 days of the release of the report	Chair and CEO (provides to Minister)
Outstanding Audit Recommendations	Annually	Chair and CEO (provides to Minister)
All By-Laws	Immediately after the by-law is passed by the Commission	Board (approves) Chair and CEO (provides to Minister)
Any other reports as required by legislation or Applicable Directives	As required	Submit to the responsible Minister, with a copy to the Minister of Finance as appropriate

Appendix 2: Applicable Legislation*

Legislation applicable to the Commission includes:

- Securities Act, R.S.O. 1990, c.S.5
- Commodity Futures Act, R.S.O. 1990, c. C. 20
- Business Corporations Act, R.S.O. 1990 c. B.16
- Public Service of Ontario Act, 2006, c. 35, Sched. A
- Freedom of Information and Protection of Privacy Act, R.S.O. 1990, F. 31
- Public Sector Salary Disclosure Act, 1996, S.O. 1996, c.1, Sched. A
- Financial Administration Act, R.S.O. 1990, c. F.12
- French Language Services Act, R.S.O. 1990, c. F.32
- Archives and Recordkeeping Act, 2006, S.O. 2006, c. 34, Sched. A
- Accessibility for Ontarians with Disability Act, 2005, S.O. 2005, c.11
- Pay Equity Act, R.S.O. 1990, c. P.7
- Public Sector Expenses Review Act, 2009, S.O. 2009, c.20
- Occupational Health and Safety Act, R.S.O.1990, c.O.1
- Statutory Powers Procedure Act, R.S.O. 1990, c.S.22
- Broader Public Sector Executive Compensation Act, 2014, S.O. 2014, c. 13, Sched. 1
- Broader Public Sector Accountability Act, 2010, S.O. 2010, c.25
- Tribunal Adjudicative Records Act, 2019, S.O. 2019, c. 7, Sched. 60

*Please note: this is not an exhaustive list

Appendix 3: Applicable Directives*

1. The following TB/MBC and Government Directives apply to the Commission:

- Agencies and Appointments Directive
- Travel, Meal and Hospitality Expenses Directive (the Commission received special status for international travel under this Directive)
- Ontario Public Service (OPS) Procurement Directive (Note: the Commission is considered an "Other Included Entity" under this directive)
- Corporate Policy on Recordkeeping
- Corporate Policy on Protection of Personal Information
- Communications in French Directive
- Visual Identity Directive
- Broader Public Sector Compensation Information Directive
- Advertising Content Directive
- Delegation of Authority Key Directive
- Open Data Directive
- MBC Realty Directive
- Perquisites Directive
- Procurement Directive on Advertising, Public and Media Relations, and Creative Communications Services
- Internal Audit Directive
- Disclosure of Wrongdoing Directive
- Internal Control Policy

*Please note: this list is as of November 28, 2019 and may change from time to time

2. The Commission is responsible for complying with all directives to which it is subject, irrespective of whether it is included on the list above.

3. The Ministry will inform the Commission of amendments or additions to directives, policies and guidelines that apply to the Commission.

4. Where the matters dealt with in these directives are the subject of provisions of the *Securities Act*, the regulations and the rules thereunder, the latter provisions will govern.

1.4 Notices from the Office of the Secretary

1.4.1 Donna Hutchinson et al.

FOR IMMEDIATE RELEASE
January 3, 2020

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

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

A copy of the Reasons and Decision on Sanctions and Costs and the Order dated January 2, 2020 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.2 Majd Kitmitto et al.

FOR IMMEDIATE RELEASE
January 3, 2020

MAJD KITMITTO,
STEVEN VANNATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING, and
FRANK FAKHRY,
File No. 2018-70

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

A copy of the Order dated January 3, 2020 is available at www.osc.gov.on.ca.

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inquiries@osc.gov.on.ca

1.4.3 BDO Canada LLP

FOR IMMEDIATE RELEASE
January 6, 2020

BDO CANADA LLP,
File No. 2018-59

TORONTO – The Commission issued its Reasons and Decision on a Motion in the above named matter.

A copy of the Reasons and Decision on a Motion dated January 3, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 CI Investments

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to exchange-traded series of conventional mutual funds for continuous distribution of securities – relief granted to facilitate the offering of exchange-traded series and conventional mutual fund series within same fund structure – relief granted from the requirement in NI 41-101 to prepare and file a long form prospectus for exchange-traded series provided that a simplified prospectus is prepared and filed in accordance with NI 81-101– relief permitting all series of funds to be disclosed in same prospectus – disclosure required by NI 41-101 for exchange-traded series and not contemplated by NI 81-101 will be disclosed in prospectus under relevant headings – technical relief granted to mutual funds from Parts 9, 10 and 14 of National Instrument 81-102 – Investment Funds to permit funds to treat exchange-traded series in a manner consistent with treatment of other exchange-traded fund securities in continuous distribution in connection with their compliance with Parts 9, 10 and 14 of NI 81-102 – relief permitting funds to treat mutual fund series in a manner consistent with treatment of other conventional mutual fund securities in connection with their compliance with Parts 9, 10 and 14 of NI 81-102.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S. 5, as am., ss. 59(1) and 147.
National Instrument 41-101 General Prospectus Requirements, s. 19.1
National Instrument 81-102 – Investment Funds, Parts 9, 10 and 14 and s. 19.1.

December 19, 2019

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

AND

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

AND

IN THE MATTER OF
CI INVESTMENTS INC.

DECISION

Background

The principal regulator in the Jurisdiction has received an application from CI Investments Inc. (the **Filer**) on behalf of:

1. all existing mutual funds managed by the Filer that offer securities under a simplified prospectus in accordance with the provisions of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) (the **Existing Funds**) and any additional mutual funds established in the future of which the Filer is the manager that may offer an ETF Class (as defined below) under a simplified prospectus in accordance with NI 81-101 (the **Future Funds**, and together with the Existing Funds, the **Funds**, and each individually, a **Fund**), for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that:

    (a) exempts the Filer and each Fund from the requirement to prepare and file a long form prospectus for the ETF Securities (as defined below) in the form prescribed by Form 41-101F2 *Information Required in an Investment*

Fund Prospectus (**Form 41-101F2**), subject to the terms of this decision and provided that the Filer files a prospectus for the ETF Securities in accordance with the provisions of **NI 81-101**, other than the requirements pertaining to the filing of a Fund Facts document (as defined below) (the **ETF Prospectus Form Requirement**); and

(b) permits the Filer and each Fund to treat the ETF Securities and the Mutual Fund Securities (as defined below) as if such securities were separate funds in connection with their compliance with the provisions of Parts 9, 10 and 14 of NI 81-102 (the **Sales and Redemptions Requirements**)

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

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

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in all of the provinces and territories of Canada other than Ontario (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.

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

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

Basket of Securities means, in relation to a Fund, a group of securities or assets representing the constituents of the Fund.

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

ETF Class means an exchange-traded class or series of a Fund that is listed or will be listed on the TSX, the NEO, or other Marketplace and that will be distributed pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1.

ETF Facts means a prescribed summary disclosure document required pursuant to NI 41-101, in the form prescribed by Form 41-101F4, in respect of one or more classes or series of ETF Securities being distributed under a prospectus.

ETF Securities means securities of an ETF Class of a Fund that are listed or will be listed on the TSX, the NEO or another Marketplace and that will be distributed pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1.

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

Form 81-101FI means Form 81-101F1 *Contents of Simplified Prospectus*.

Fund Facts means a prescribed summary disclosure document required pursuant to NI 81-101 in the form prescribed by Form NI 81-101F3, in respect of one or more classes or series of Mutual Fund Securities being distributed under a prospectus.

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

Mutual Fund Securities means securities of a non-exchange-traded class of a Fund that are or will be distributed pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1.

NEO means the NEO Exchange.

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

NI 81-101 means National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

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

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

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Securityholders means beneficial or registered holders of ETF Securities or Mutual Fund Securities, as applicable.

TSX means the Toronto Stock Exchange.

Representations

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

The Filer

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

   (a) under the securities legislation of all provinces and territories of Canada as a portfolio manager;

   (b) under the securities legislation of Ontario, Québec, and Newfoundland and Labrador as an investment fund manager;

   (c) under the securities legislation of all provinces and territories of Canada as an exempt market dealer; and

under the *Commodity Futures Act* (Ontario) as a commodity trading counsel and a commodity trading manager.

2. The Filer is, or will be, the investment fund manager and portfolio manager of the Funds.

3. Neither the Filer nor any of the existing Funds is in default of securities legislation in any of the Jurisdictions.

The Funds

4. Each Fund is, or will be, a mutual fund structured as a trust or a corporation or a class thereof that is organized and governed by the laws of the Province of Ontario. Each Fund is, or will be, a reporting issuer in the Jurisdiction(s) in which its securities are distributed.

5. Each Fund offers, or will offer, Mutual Fund Securities, and may in the future also offer ETF Securities.

6. The Funds are, or will be, governed by the provisions of NI 81-102, subject to any exemption therefrom that has been, or may be, granted by the applicable securities regulatory authorities. Securityholders will have the right to vote at a meeting of Securityholders in respect of matters prescribed by NI 81-102.

7. The Filer will apply to list the ETF Securities of the Funds on the TSX, the NEO or another Marketplace and will not file a final prospectus for any of the Funds in respect of the ETF Securities until the TSX, the NEO or other applicable Marketplace has conditionally approved the listing of the ETF Securities.

8. Mutual Fund Securities of the Funds will not be listed on the TSX, the NEO or another Marketplace.

9. The Filer has filed or will file a simplified prospectus prepared and filed in accordance with NI 81-101 and Form 81-101F1 on behalf of the Funds in respect of the Mutual Fund Securities, subject to any exemptions that may be granted by the applicable securities regulatory authorities.

10. Mutual Fund Securities may be subscribed for or purchased directly from a Fund through registered dealers.

11. ETF Securities will be distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the Funds (**Creation Units**) by Authorized Dealers or Designated Brokers. Generally, subscriptions or purchases may only be placed for a Prescribed Number of ETF Securities (or a multiple thereof) on any day when there is a trading session on the TSX, the NEO or other

Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX, the NEO or another Marketplace.

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

13. Each Designated Broker or Authorized Dealer that subscribes for Creation Units must deliver, in respect of each Prescribed Number of ETF Securities to be issued, a Basket of Securities and/or cash in an amount sufficient so that the value of the Basket of Securities and/or cash delivered is equal to the net asset value of the ETF Securities subscribed for next determined following the receipt of the subscription order. In the discretion of the Filer, the Funds may also accept subscriptions for Creation Units in cash only, in securities other than Baskets of Securities and/or in a combination of cash and securities other than Baskets of Securities, in an amount equal to the net asset value of the ETF Securities subscribed for next determined following the receipt of the subscription order.

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

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

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

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

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

ETF Prospectus Form Requirement

19. The Filer believes it is more efficient and expedient to include all of the classes or series of each Fund, including Mutual Fund Securities and ETF Securities of a Fund, in one prospectus form instead of two different prospectus forms and that this presentation will assist in providing full, true and plain disclosure of all material facts relating to the securities of the Funds by permitting disclosure relating to all classes and series of securities to be included in one prospectus. The Filer has already filed a simplified prospectus in respect of the Existing Funds, and proposes to continue to file simplified prospectuses in respect of Future Funds.

20. The Filer will ensure that any additional disclosure included in the simplified prospectus and annual information form relating to the ETF Securities will not interfere with an investor's ability to differentiate between the Mutual Fund Securities and the ETF Securities and their respective attributes.

21. The Funds will file ETF Facts in the form prescribed by Form 41-101F4 in respect of any ETF Securities, and will continue to file Fund Facts in the form prescribed by Form 81-101F3 *Contents of Fund Facts Document* in respect of Mutual Fund Securities.

22. The Funds will comply with the provisions of NI 81-101 when filing any amendment or prospectus.

Sales and Redemptions Requirements

23. Parts 9, 10 and 14 of NI 81-102 do not contemplate both Mutual Fund Securities and ETF Securities being offered in a single fund structure. Accordingly, without the Exemption Sought from the Sales and Redemption Requirements, the Filer and the Funds would not be able to technically comply with those parts of the Instrument.

24. The Exemption Sought from the Sales and Redemption Requirements will permit the Filer and the Funds to treat the ETF Securities and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with Parts 9, 10 and 14 of NI 81-102. The Exemption Sought from the Sales and Redemption Requirements will enable each of the ETF Securities and Mutual Fund Securities to comply with Parts 9, 10 and 14 of NI 81-102 as appropriate for the type of security being offered.

Decision

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

1. The decision of the principal regulator is that the Exemption Sought from the ETF Prospectus Form Requirement is granted, provided that the Filer will be in compliance with the following conditions:

    (a) the Filer files a simplified prospectus and annual information form in respect of the ETF Securities in accordance with the requirements of NI 81-101, Form 81-101F1 and Form 81-101F2, other than the requirements pertaining to the filing of a Fund Facts document;

    (b) the Filer includes disclosure required pursuant to Form 41-101F2 (that is not contemplated by Form 81-101F1 or Form 81-101F2) in respect of the ETF Securities, in each Fund's simplified prospectus and/or annual information form, as applicable; and

    (c) the Filer includes disclosure regarding this decision under the heading "Additional Information" and "Exemptions and Approvals" in each Fund's simplified prospectus and annual information form, respectively.

2. The decision of the principal regulator under the Legislation is that the Exemption Sought from the Sales and Redemptions Requirements is granted, provided that the Filer will be in compliance with the following conditions:

    (a) with respect to its Mutual Fund Securities, each Fund complies with the provisions of Parts 9, 10 and 14 of NI 81-102 that apply to mutual funds that are not exchange-traded mutual funds; and

    (b) with respect to its ETF Securities, each Fund complies with the provisions of Parts 9 and 10 of NI 81-102 that apply to exchange-traded mutual funds.

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

2.1.2 McElvaine Investment Management Ltd. and The McElvaine Investment Trust

Headnote

National Policy 11-203 – Relief granted from 15.3(2), 15.6(1)(a)(i) and 15.6(1)(d) of National Instrument 81-102 Investment Funds to permit a mutual fund, that has not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in their sales communications performance data for the period when the fund was not a reporting issuer – relief also granted from section 2.1 of National Instrument 81-101 Mutual Fund Prospectus Disclosure for the purposes of the relief requested from Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document, to permit the mutual fund to include in its fund facts for series O, the past performance data for the period when the fund was not a reporting issuer.

National Policy 11-203 – 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 Contents of Annual and Interim Management Report of Fund Performance, items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1, and Items 3(1) and 4 of Part C of Form 81-106F1, to permit a mutual fund to include in annual and interim management reports of fund performance the financial highlights and past performance of the fund that are derived from the fund's annual financial statements that pertain to time periods when the fund was not a reporting issuer.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 15.3(2), 15.6(1)(a)(i), 15.6(1)(d) and 19.1.
National Instrument 81-101 Investment Fund Prospectus Disclosure, s. 2.1.
Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document.
National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 4.4 and 17.1.
Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-0106F1 Contents of Annual and Interim Management Report of Fund Performance and Items 3(1) and 4 of Part C of Form 81-106F1.

December 19, 2019

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

AND

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

AND

IN THE MATTER OF
MCELVAINE INVESTMENT MANAGEMENT LTD.
(the Filer)

AND

IN THE MATTER OF
THE MCELVAINE INVESTMENT TRUST
(the Fund)

DECISION

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for relief, with respect to the Series B Units, exempting the Fund from:

(a) sections 15.3(2), 15.6(1)(a)(i) and 15.6(1)(d) of National Instrument 81-102 *Investment Funds* (NI 81-102) to permit the Fund to include performance data in sales communications notwithstanding that

(i) the performance data will relate to a period prior to the Fund offering its securities under a simplified prospectus; and

(ii) the Fund has not distributed its securities under a prospectus for 12 consecutive months;

(b) section 2.1 of National Instrument 81-101 *Mutual Funds Prospectus Disclosure* (NI 81-101) to permit the Fund to file a fund facts document (fund facts) that does not comply with Part I Items 5(2), 5(3) and 5(4), and Instructions (1) and (5) of Form 81-101F3 *Contents of Fund Facts Document* (Form 81-101F3) in respect of the requirement to comply with sections 15.3(2), 15.6(1)(a)(i) and 15.6(1)(d) of NI 81-102 to permit the Fund to include in its fund facts past performance data of the Fund notwithstanding that

(i) the performance data relates to a period prior to the Fund offering its securities under a simplified prospectus, and

(ii) the Fund has not distributed its securities under a simplified prospectus for 12 consecutive months;

(c) section 4.4 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106) to permit the Fund to file annual and interim management reports of fund performance (individually an MRFP and collectively, the MRFPs) that do not comply with Part B Items 3.1(7) and 4.1(1) of Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (Form 81-106F1) in respect of the requirement to comply with section 15.3(2) of NI 81-102, Part B Items 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Form 81-106F1 and Part C Items 3(1) and 4 of Form 81-106F1 to permit the Fund to include in its MRFP past performance data notwithstanding that such performance data relates to a period prior to the Fund offering its securities under a simplified prospectus;

(collectively, the Exemption Sought).

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

(a) the British Columbia Securities Commission is the principal regulator for the Application;

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

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

Interpretation

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

Representations

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

1. the Fund is an open-end mutual fund established under the laws of British Columbia as a trust on September 27, 1996 (the Inception Date) and governed by an amended and restated trust agreement made as of June 30, 2019;

2. the Filer is a corporation organized under the laws of Canada with a head office in Victoria, British Columbia;

3. the Filer is registered as an investment fund manager in British Columbia, Ontario and Quebec; as a portfolio manager in Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan; and as an exempt market dealer in Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan;

4. the Filer is the trustee, manager, portfolio adviser and promoter of the Fund;

5. since the Inception Date, the Fund distributed Series B Units to investors using exemptions from the prospectus requirement in National Instrument 45-106 *Prospectus Exemptions* (NI 45-106); during such period of time, the majority of Series B Units were distributed to investors who are “accredited investors” under NI 45-106;

6. the Fund intends to commence distributing its Series B Units pursuant to a simplified prospectus (the IPO) and, to that end filed a preliminary simplified prospectus, annual information form and fund facts dated September 27, 2019 in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario; upon the issuance of a receipt for the final simplified prospectus and annual information form, the Fund will become a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario and will become subject to the requirements of NI 81-102 and NI 81-106; in the future, the Fund may become a reporting issuer in other jurisdictions of Canada;

7. the Filer and the Fund are not in default of securities legislation in any jurisdiction of Canada;

8. since the Inception Date, the Fund has prepared annual and interim financial statements in accordance with NI 81-106;

9. since the Inception Date, the Fund did not deviate from the investment restrictions contained in NI 81-102, except with respect to a small number of investments that, for certain periods, deviated from the concentration and control restrictions in sections 2.1 and 2.2 of NI 81-102 and with the restrictions concerning illiquid assets in section 2.4 of NI 81-102; and

10. specifically, the Fund deviated from the investment restrictions in NI 81-102 in the following instances:

Section 2.1 concentration restriction

(a) for the period from approximately September 2001 to June 2002, the Fund's investment in common shares of Sun-Rype Products Ltd. exceeded 10% of the Fund's net asset value;

(b) for the period from June 2002 to March 2004, the Fund's investment in shares of CINAR Corporation exceeded 10% of the Fund's net asset value; and

(c) for the period from September 2008 to February 2013, the Fund's investment in shares of Glacier Media Inc. exceeded 10% of the Fund's net asset value;

Section 2.2 control restriction

(d) for the period from April 2009 to November 2012, the Fund held securities of The Caldwell Partners International Inc. representing more than 10% of the outstanding equity securities of that issuer;

(e) for the period from November 2004 to May 2006, the Fund held securities of Humpty Dumpty Snack Foods Inc. representing more than 10% of the votes attached to the outstanding voting securities or the outstanding equity securities of that issuer; and

(f) for the period from December 2007 to November 2013, the Fund held securities of Wow! Unlimited Media Inc. (previously Rainmaker Entertainment Group Limited and Rainmaker Income Fund) representing more than 10% of the votes attached to the outstanding voting securities or the outstanding equity securities of that issuer;

Section 2.4 restrictions concerning illiquid assets

(g) on or about July 5, 2019, the Fund acquired common shares of Wintaai Holdings Ltd., which are illiquid assets for the purposes of NI 81-102; this transaction resulted in the Fund holding more than 10% of its net asset value in illiquid assets; immediately following the transaction, the Fund held approximately 18% of its net asset value in illiquid assets, and until November 25, 2019 illiquid assets held by the Fund continued to represent more than 15% of its net asset value;

11. the above exceptions to compliance with NI 81-102 did not have a material impact on the Fund's performance;

12. except as described above, there have been no other instances of the Fund's non-compliance with NI 81-102 since the Inception Date;

13. the Fund will be managed substantially similarly after it becomes a reporting issuer as it was prior to becoming a reporting issuer; as a result of the Fund becoming a reporting issuer:

(a) the Fund's investment objectives will not change;

(b) the management fee charged to the Fund in respect of its Series B Units will not change;

(c) the day-to-day administration of the Fund will not change, other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which will impact the portfolio management of the Fund); and

(d) the management expense ratio of Series B Units of the Fund is not expected to increase by more than 0.10%, which is an immaterial amount;

14. the Filer proposes to present the performance data of Series B Units of the Fund for the time period since the Inception Date in sales communications pertaining to the Fund;

15. without the Exemption Sought, sales communications pertaining to the Fund cannot include performance data of the Fund that relate to a period prior to it becoming a reporting issuer;

16. without the Exemption Sought, sales communications pertaining to the Fund would not be permitted to include performance data until the Fund has distributed securities under a simplified prospectus for 12 consecutive months;

17. as a reporting issuer, the Fund will be required under NI 81-101 to prepare and file fund facts;

18. the Filer proposes to include in the fund facts for Series B Units of the Fund past performance data in the disclosure required by items 5(2), 5(3) and 5(4) under the sub-headings "Year-by-year returns", "Best and worst 3-month returns" and "Average return", respectively, related to periods prior to the Fund becoming a reporting issuer;

19. without the Exemption Sought, the fund facts for Series B Units of the Fund cannot include performance data of the Fund that relate to a period prior to it becoming a reporting issuer;

20. as a reporting issuer, the Fund will be required under NI 81-106 to prepare and send MRFPs;

21. without the Exemption Sought, the MRFPs of the Fund cannot include financial highlights and performance data of the Fund that relate to a period prior to it becoming a reporting issuer; and

22. the performance data and other financial data of the Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors in making an informed decision whether to purchase Series B Units of the Fund.

Decision

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

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

(a) any sales communication and any fund facts that contain performance data of Series B Units of the Fund relating to a period prior to when the Fund was a reporting issuer discloses:

(i) that the Fund was not a reporting issuer during such period;

(ii) that the expenses of the Fund would have been higher during such period had the Fund been subject to the additional regulatory requirements applicable to a reporting issuer;

(iii) that prior to becoming a reporting issuer the Fund was not subject to and did not fully comply with the investment restrictions and practices in NI 81-102;

(iv) that the Fund's non-compliance with the investment restrictions and practices in NI 81-102 may have impacted the Fund's performance for the period prior to the Fund becoming a reporting issuer; and

(v) performance data of Series B Units of the Fund for 10, 5, 3 and one year periods;

(b) the information contained under the heading "Fund Expenses Indirectly Borne by Investors" in Part B of the simplified prospectus of the Fund based on the management expense ratio (MER) for the Fund for the financial year ended December 31, 2019 be accompanied by disclosure that:

(i) the information is based on the MER of Series B Units of the Fund for the Fund's last completed financial year when Series B Units were offered privately during part of such financial year; and

(ii) the MER of the Fund may increase as a result of the Fund offering Series B Units under the simplified prospectus;

(c) any MRFP that includes performance data of Series B Units of the Fund relating to a period prior to when the Fund was a reporting issuer discloses:

(i) that the Fund was not a reporting issuer during such period;

(ii) that the expenses of the Fund would have been higher during such period had the Fund been subject to the additional regulatory requirements applicable to a reporting issuer;

(iii) that prior to becoming a reporting issuer the Fund was not subject to and did not fully comply with the investment restrictions and practices in NI 81-102;

(iv) that the Fund's non-compliance with the investment restrictions and practices in NI 81-102 may have impacted the Fund's performance for the period prior to the Fund becoming a reporting issuer;

(v) that the financial statements of the Fund for such period are posted on the Fund's website and are available to investors upon request; and

(vi) performance data of Series B Units of the Fund for 10, 5, 3 and one year periods; and

(d) the Filer posts the annual financial statements of the Fund since the Inception Date on the Fund's website and makes those financial statements available to investors upon request.

"Nigel P. Cave"
Vice Chair
British Columbia Securities Commission

2.1.3 Horizons ETFS Management (Canada) Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to mutual funds for extensions of lapse dates of their prospectuses – Filer will incorporate offering of the funds under the same offering documents when they are renewed – Extensions of lapse dates will not affect the currency or accuracy of the information contained in the current prospectuses.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S. 5, as amended, ss. 62(5).

December 19, 2019

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

AND

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

AND

IN THE MATTER OF
HORIZONS ETFS MANAGEMENT (CANADA) INC.
(the Filer)

AND

IN THE MATTER OF
HORIZONS CHINA HIGH DIVIDEND YIELD INDEX ETF

AND

HORIZONS S&P/TSX 60 EQUAL WEIGHT 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 prospectuses of the Funds (the **Prospectuses**) be extended to those time limits that would apply if the lapse date were April 10, 2020 (the **Requested Relief**).

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

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

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

Interpretation

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

Representations

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

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

2. The Filer is registered as a portfolio manager in Alberta, British Columbia, Ontario and Québec, an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan, a commodity trading manager and a commodity trading adviser in Ontario and an investment fund manager in each of Ontario, Québec and Newfoundland and Labrador. The Filer is the investment fund manager of the Funds.

3. Each Fund is an exchange-traded mutual fund (ETF) established under the laws of Ontario, and is a reporting issuer as defined in the securities legislation of each of the Jurisdictions.

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

5. The Funds currently distribute securities in the Jurisdictions under the Prospectuses. Securities of Horizons China High Dividend Yield Index ETF and Horizons S&P/TSX 60 Equal Weight Index ETF trade on the Toronto Stock Exchange under the ticker symbols "HCN" and "HEW", respectively.

6. Pursuant to subsection 62(1) of the Act, the lapse dates of the Prospectuses are January 24, 2020 (for Horizons China High Dividend Yield Index ETF) and February 7, 2020 (for Horizons S&P/TSX 60 Equal Weight ETF) (each a Lapse Date and collectively, the Lapse Dates). Accordingly, under subsection 62(2) of the Act, the distribution of securities of the Funds would have to cease on the applicable Lapse Date unless: (i) each Fund files a pro forma prospectus at least 30 days prior to the applicable Lapse Date; (ii) the final prospectus is filed no later than 10 days after the applicable Lapse Date; and (iii) a receipt for

the final prospectus is obtained within 20 days of the applicable Lapse Date.

7. The Filer is the investment fund manager of ten other ETFs as listed in Appendix A (the Other Funds) that currently distribute their securities to the public under one prospectus that has a lapse date of April 10, 2020 (the Other Funds Prospectus).

8. The Filer wishes to combine the Prospectuses with the Other Funds Prospectus in order to reduce renewal, printing and related costs of the Funds and the Other Funds. Offering the Funds and the Other Funds under one prospectus would facilitate the distribution of the Funds in the Jurisdictions under the same prospectus 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 prospectus will allow investors to more easily compare their features.

9. It would be unreasonable to incur the costs and expenses associated with preparing three separate renewal prospectuses given how close in proximity the Lapse Dates are to one another.

10. There have been no material changes in the affairs of each Fund since the date of the applicable Prospectus. Accordingly, the Prospectus and current ETF Facts of each Fund represents current information regarding such Fund.

11. 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 Prospectus and the current ETF Facts of each Fund will be amended as required under the Legislation.

12. New investors of the Funds will receive delivery of the most recently filed ETF Facts of each Fund. The current Prospectuses will remain available to investors upon request.

13. The Requested Relief will not affect the accuracy of the information contained in the Prospectuses 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

Appendix A

The Other Funds

Horizons US Dollar Currency ETF

Horizons Canadian Midstream Oil & Gas Index ETF

Horizons Cdn Insider Index ETF

Horizons Canadian Dollar Currency ETF

Horizons Marijuana Life Sciences Index ETF

Horizons Inovestor Canadian Equity Index ETF

Horizons Robotics and Automation Index ETF

Horizons Blockchain Technology and Hardware Index ETF

Horizons Global Sustainability Leaders Index ETF

Horizons Industry 4.0 Index ETF

2.1.4 CI Investments Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to conventional mutual fund series of exchange-traded funds for continuous distribution of securities – relief granted to facilitate the offering of conventional mutual fund series and exchange-traded series within same fund structure – relief granted from the requirement in NI 81-101 to prepare and file a simplified prospectus for mutual fund series provided that a Long Form Prospectus is prepared and filed in accordance with NI 41-101 – mutual fund series and exchange-traded series referable to same portfolio and have substantially identical disclosure – relief permitting all series of funds to be disclosed in same prospectus – disclosure required by NI 81-101 for mutual fund series and not contemplated by NI 41-101 will be disclosed in prospectus under relevant headings – technical relief granted to funds from Parts 9, 10 and 14 of National Instrument 81-102 to permit funds to treat exchange-traded series in a manner consistent with treatment of other exchange-traded fund securities in continuous distribution in connection with their compliance with Parts 9, 10 and 14 of NI 81-102 – relief permitting funds to treat mutual fund series in a manner consistent with treatment of other conventional mutual fund securities in connection with their compliance with Parts 9, 10 and 14 of NI 81-102.

Applicable Legislative Provisions

National Instrument 41-101 General Prospectus Requirements, s. 19.1.
National Instrument 81-102 – Investment Funds, s. 19.1.

December 19, 2019

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

AND

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

AND

IN THE MATTER OF
CI INVESTMENTS INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the funds listed in Schedule A (collectively, the **Existing Funds**), and such other mutual funds as are managed or may be managed by the Filer now, or in the future, and that are structured in the same manner as the Existing Funds (the **Future Funds**, and together with the Existing Funds, the **Funds**, and each individually**,** a **Fund**), for a decision under the securities legislation of the Jurisdiction (the **Legislation**) to permit the Filer and each Fund to

(a) file a prospectus for the Mutual Fund Securities (as defined below) of each Fund in accordance with the provisions of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) and in the form prescribed by Form 41-101F2 *Information Required in an Investment Fund Prospectus* (**Form 41-101F2**) instead of preparing and filing a simplified prospectus and annual information form for the Mutual Fund Securities in accordance with the provisions of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) and the forms prescribed by Form 81-101F1 *Contents of Simplified Prospectus* (**Form 81-101F1**) and Form 81-101F2 *Contents of Annual Information Form* (**Form 81-101F2**) (the **Simplified Prospectus Form Requirements**); and

(b) permit the Filer and each Fund to treat the ETF Securities (as defined below) and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with the provisions of Parts 9, 10 and 14 of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Sales and Redemption Requirements**),

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

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

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

(b) the Filer has provided notice that 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 Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

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

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

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of a Fund authorizing the dealer to subscribe for,

purchase and redeem Creation Units from one or more Funds on a continuous basis from time to time.

Basket of Securities means, in relation to a Fund, a group of securities or assets representing the constituents of the Fund.

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

ETF Facts means a prescribed summary disclosure document required pursuant to NI 41-101, in respect of one or more classes of ETF Securities being distributed under a prospectus.

ETF Securities means securities of an ETF class of a Fund that are listed or will be listed on the TSX, the NEO or another Marketplace and that will be distributed pursuant to a prospectus prepared in accordance with NI 41-101 and Form 41-101F2.

Fund Facts means a prescribed summary disclosure document required pursuant to NI 81-101, in respect of one or more classes of Mutual Fund Securities being distributed under a prospectus.

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

Mutual Fund Securities means securities of a non-exchange-traded class of a Fund that are or will be distributed pursuant to a simplified prospectus prepared in accordance with NI 41-101 and Form 41-101F2.

NEO means the NEO Exchange Inc.

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

Securityholders means beneficial and registered holders of ETF Securities or Mutual Fund Securities, as applicable.

TSX means the Toronto Stock Exchange.

Representations

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

The Filer

1. The Filer is a corporation amalgamated under the laws of Canada, with its head office in Toronto, Ontario.

2. The Filer is registered as follows:

   (a) under the securities legislation of all provinces and territories as a portfolio manager;

   (b) under the securities legislation of Ontario, Quebec and Newfoundland and Labrador as an investment fund manager;

   (c) under the securities legislation of all provinces and territories as an exempt market dealer; and

   (d) under the *Commodity Future Act* (Ontario) as a commodity trading counsel and a commodity trading manager.

2. The Filer is or will be the investment fund manager and portfolio manager of the Funds. The Filer has applied, or will apply, to list the ETF Securities on the TSX, the NEO or another Marketplace.

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

The Funds

4. Each Fund is or will be a mutual fund structured as a trust or a corporation or class thereof that is governed by the laws of the Province of Ontario. Each Fund is, or will be, a reporting issuer in the Jurisdiction(s) in which its securities are distributed.

5. Each Fund offers, or will offer, ETF Securities, and may in the future also offer Mutual Fund Securities.

6. Subject to any exemptions that have been, or may be, granted by the applicable securities regulatory authorities, each Fund will be an open-ended mutual fund subject to NI 81-102.

7. The ETF Securities are or will be listed on the TSX, the NEO or another Marketplace. The Filer will not file a final prospectus for any of the Funds in respect of the ETF Securities until the TSX, the NEO or other applicable Marketplace has conditionally approved the listing of the ETF Securities.

8. Mutual Fund Securities will not be listed on the TSX, the NEO, or another Marketplace.

9. The Filer has filed, or will file, a long form prospectus prepared and filed in accordance with NI 41-101 and Form 41-101F2 on behalf of the Funds in respect of the ETF Securities, subject to any exemptions that may be granted by the applicable securities regulatory authorities.

10. ETF Securities and Mutual Fund Securities, if any, are, or will be, distributed on a continuous

basis in one or more of the Jurisdictions under a prospectus.

11. ETF Securities may generally only be subscribed for, or purchased directly from, the Funds (**Creation Units**) by Authorized Dealers or Designated Brokers. Generally, subscriptions or purchases may only be placed for a Prescribed Number of ETF Securities (or a multiple thereof) on any day when there is a trading session on the TSX, the NEO or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX, the NEO or another Marketplace.

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

13. Each Fund has appointed or will appoint, at any given time, a Designated Broker to perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

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

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

16. Mutual Fund Securities may be subscribed for or redeemed directly from a Fund through qualified financial advisors or brokers.

17. The Existing Funds are not in default of securities legislation in any of the Jurisdictions.

Simplified Prospectus Form Requirements

17. Without the Exemption Sought, when the Filer decides to offer Mutual Fund Securities of a Fund that has ETF Securities, it would be required to prepare and file a prospectus pursuant to NI 81-101 in respect of those Mutual Fund Securities. This would be in addition to the prospectus that would need to be filed and prepared pursuant to NI 41-101 in respect of the ETF Securities of the Fund.

18. The Filer believes it is more efficient and expedient to include all of the classes of each Fund, including ETF Securities and Mutual Fund Securities of a Fund, in one prospectus form instead of two different prospectus forms. The Filer also believes that this presentation will assist in providing full, true and plain disclosure of all material facts relating to the securities of the Funds, by permitting disclosure relating to all classes of securities to be included in one prospectus. The Filer has already filed a long form prospectus in respect of the Existing Funds, and proposes to continue to file long form prospectuses in respect of Future Funds.

19. The Filer will ensure that any additional disclosure included in the prospectus relating to the Mutual Fund Securities will not interfere with an investor's ability to differentiate between the Mutual Fund Securities and the ETF Securities and their respective attributes. Accordingly, in order to provide clarity to investors, the Filer will amend the names of the Existing Funds that intend to offer Mutual Fund Securities by replacing the word "ETF" with "Fund". In addition, the existing ETF Securities of the Funds will be redesignated as "ETF Class Units" and Mutual Fund Securities, if any, will be designated as "Mutual Fund Class Units", as applicable.

20. The Funds will file Fund Facts in the form prescribed by Form 81-101F3 *Contents of Fund Facts Document* in respect of any Mutual Fund Securities, and will continue to file ETF Facts in the form prescribed by Form 41-101F4 in respect of any ETF Securities.

21. The Funds will comply with the provisions of NI 41-101 when filing any amendment or prospectus.

22. The Mutual Fund Securities of each Fund will continue to be subject to the prospectus and Fund Facts delivery obligations set out in NI 81-101.

Sales and Redemption Requirements

23. Parts 9, 10 and 14 of NI 81-102 do not contemplate both Mutual Fund Securities and ETF Securities being offered in a single fund structure. Accordingly, without the Exemption Sought from the Sales and Redemption Requirements, the Filer and the Funds would not be able to technically comply with those parts of the Instrument.

24. The Exemption Sought from the Sales and Redemption Requirements will permit the Filer and the Funds to treat the ETF Securities and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with Parts 9, 10 and 14 of NI 81-102. The Exemption Sought from the Sales and Redemption Requirements will enable each of the ETF Securities and Mutual Fund Securities to comply with Parts 9, 10 and 14 of NI 81-102, as appropriate, for the type of security being offered.

Decision

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

1. The decision of the principal regulator is that the Exemption Sought from the Simplified Prospectus Form Requirements is granted, provided that:

    (a) the Fund offers both Mutual Fund Securities and ETF Securities;

    (b) the Filer files a long form prospectus in respect of the Mutual Fund Securities in accordance with the requirements of NI 41-101 and Form 41-101F2, other than the requirements pertaining to the filing of an ETF Facts document;

    (c) the Filer includes disclosure required pursuant to Form 81-101F1 and Form 81-101F2 (that is not contemplated by NI 41-101F2) in respect of the Mutual Fund Securities in each Fund's prospectus, as applicable; and

    (d) the Filer includes disclosure regarding this decision under the heading "Exemptions and Approvals" in each Fund's prospectus.

2. The decision of the principal regulator is that the Exemption Sought from the Sales and Redemption Requirements is granted, provided that:

    (a) with respect to its Mutual Fund Securities, each Fund complies with the provisions of Parts 9, 10 and 14 of NI 81-102 that apply to mutual funds that are not exchange-traded mutual funds; and

    (b) with respect to its ETF Securities, each Fund complies with the provisions of Parts 9 and 10 of NI 81-102 that apply to exchange-traded mutual funds.

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

SCHEDULE A

EXISTING FUNDS

1. CI First Asset 1-5 Year Laddered Government Strip Bond Index ETF
2. CI First Asset Active Canadian Dividend ETF
3. CI First Asset Active Credit ETF
4. CI First Asset Active Utility & Infrastructure ETF
5. CI First Asset Canadian Buyback Index ETF
6. CI First Asset Canadian Convertible Bond ETF
7. CI First Asset Canadian REIT ETF
8. CI First Asset CanBanc Income Class ETF
9. CI First Asset Core Canadian Equity Income Class ETF
10. CI First Asset Energy Giants Covered Call ETF
11. CI First Asset Enhanced Government Bond ETF
12. CI First Asset Enhanced Short Duration Bond ETF
13. CI First Asset European Bank ETF
14. CI First Asset Global Asset Allocation ETF
15. CI First Asset Global Financial Sector ETF
16. CI First Asset Gold+ Giants Covered Call ETF *(formerly CI First Asset Can-Materials Covered Call ETF)*
17. CI First Asset Health Care Giants Covered Call ETF
18. CI First Asset High Interest Savings ETF
19. CI First Asset Investment Grade Bond ETF
20. CI First Asset Long Duration Fixed Income ETF
21. CI First Asset Morningstar Canada Dividend Target 30 Index ETF
22. CI First Asset Morningstar Canada Momentum Index ETF
23. CI First Asset Morningstar Canada Value Index ETF
24. CI First Asset Morningstar International Momentum Index ETF
25. CI First Asset Morningstar International Value Index ETF
26. CI First Asset Morningstar National Bank Quebec Index ETF
27. CI First Asset Morningstar US Dividend Target 50 Index ETF
28. CI First Asset Morningstar US Momentum Index ETF
29. CI First Asset Morningstar US Value Index ETF
30. CI First Asset MSCI Canada Low Risk Weighted ETF
31. CI First Asset MSCI Canada Quality Index Class ETF
32. CI First Asset MSCI Europe Low Risk Weighted ETF
33. CI First Asset MSCI International Low Risk Weighted ETF
34. CI First Asset MSCI USA Low Risk Weighted ETF
35. CI First Asset MSCI World ESG Impact ETF
36. CI First Asset MSCI World Low Risk Weighted ETF
37. CI First Asset Preferred Share ETF
38. CI First Asset Short Term Government Bond Index Class ETF
39. CI First Asset Tech Giants Covered Call ETF
40. CI First Asset U.S. Buyback Index ETF
41. CI First Asset U.S. Trendleaders Index ETF
42. CI First Asset US & Canada Lifeco Income ETF

2.1.5 Vision Capital Corporation and Vision Alternative Income Fund

Headnote

National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – Relief granted to mutual fund trust for extension of the lapse date of prospectus – Filer will incorporate offering of the proposed fund under the same offering documents when prospectus is 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., ss. 62(5).

January 3, 2020

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

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

AND

IN THE MATTER OF
VISION CAPITAL CORPORATION
(the Filer)

AND

IN THE MATTER OF
VISION ALTERNATIVE INCOME FUND
(the Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limits for the renewal of the simplified prospectus of the Fund be extended to the time limits that would be applicable as if the lapse date of the simplified prospectus of the Fund was April 15, 2020 (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

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

2. The Filer is currently registered as a portfolio manager, investment fund manager and exempt market dealer in the provinces of Ontario, British Columbia, Alberta and Manitoba, as an investment fund manager and exempt market dealer in the Province of Quebec and as an investment fund manager in Newfoundland and Labrador.

3. The Filer is the manager and trustee of the Fund.

4. The Fund is an open-ended mutual fund trust established under the laws of the Province of Ontario pursuant to a master declaration of trust.

5. The Fund has been authorized to distribute its securities in each of the provinces of Canada and the Yukon under an Amended and Restated Simplified Prospectus dated July 19, 2019 amending and restating the Amended and Restated Simplified Prospectus dated March 15, 2019 amending and restating the Amended and Restated Simplified Prospectus dated February 27, 2019, amending and restating the Simplified Prospectus dated February 6, 2019 (the **Current Prospectus**).

6. The Fund is a reporting issuer as defined in the securities legislation of each of the Jurisdictions. Neither the Fund nor the Filer is in default of securities legislation in any of the Jurisdictions.

Reasons for Exemption Sought

7. Pursuant to subsection 62(1) of the Securities Act (Ontario) (the "Act"), the lapse date for the Current Prospectus is February 6, 2020 (the **Current Lapse Date**).

8. Pursuant to subsection 62(2) of the Act, the distribution of securities of the Fund would have to cease on the Current Lapse Date unless:

   i. the Fund files a *pro forma* simplified prospectus at least 30 days prior to the Current Lapse Date;

   ii. the final simplified prospectus is filed no

later than 10 days after the Current Lapse Date; and

iii. a receipt of the final simplified prospectus is obtained within 20 days after the Current Lapse Date.

9. Pursuant to sections 2.6(1) and 2.6(2) of NI 81-101, the Fund must file a written consent provided by its auditor no later than February 16, 2020, 10 days after the Current Lapse Date.

10. The fiscal year-end of the Fund is December 31 and, pursuant to section 2.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure*, the annual financial statements and auditor's report are required to be filed on or before the 90th day after the Fund's most recently completed financial year, which for the Fund will be its first financial year-end of December 31, 2019 (the **2019 Fiscal Year-End**).

11. It is expected the Fund will receive the written consent of its auditor at the same time that the financial statements and auditor's report for the 2019 Fiscal Year-End are issued, which is expected to occur on or about March 30, 2020.

12. While it might be technically possible for the auditor to complete its audit of the Fund's 2019 Fiscal Year-End financial statements and issue the report by February 16, 2020, the audit for the 2019 Fiscal Year-End will not be completed by such date unless the auditor agrees to expediate the normal process. This would increase costs being indirectly borne by the Fund's securityholders.

13. In the absence of audited financial statements, key data such as the Fund's management expense ratio will not be available at the time of renewal, so the renewal documents will not contain all the information that will be available after the audit.

14. Alternatively, if the Exemption Sought is not granted, in accordance with section 3.1.2 of NI 81-101 the firm's auditor will be required to review the Fund's interim financial statements. In doing so, additional costs will be incurred and these costs will recur annually. This is not in the best interest of the securityholders.

15. Rather than facing this audit challenge each year and placing an unnecessary financial burden on the Fund and indirectly onto the Fund's securityholders, it would be more efficient and cost effective to extend the lapse date of the Current Prospectus to April 15, 2020. This extension will provide the time necessary for the auditor to complete the audit of the Fund's financial statements for the 2019 Fiscal Year-End, and file the final simplified prospectus, annual information form and fund facts, along with the written consent of the auditor, as required by NI 81-101.

New Fund

16. The Filer is preparing to launch a new alternative mutual fund in early 2020 (the **Proposed Fund**). The Filer wishes to combine the simplified prospectus of the Fund with the prospectus of the Proposed Fund and offer both funds under the same simplified prospectus and annual information form. The investment strategy of the Proposed Fund will require exemptive relief and the Filer cannot be certain that relief will be obtained in time to include the Proposed Fund in the renewal prospectus for the Fund under the Current Lapse Date.

17. The Filer wishes to combine the prospectus of the Fund with the prospectus of the Proposed Fund in order to reduce the cost of renewing the prospectus of the Fund and on-going printing and related costs. Offering the Fund and the Proposed Fund 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 Fund and the Proposed Fund are managed by the Filer, offering them under the same prospectus would allow investors to more easily compare their features.

18. It would be impractical to alter and modify all the dedicated systems, procedures and resources required to expeditiously prepare the simplified prospectus, annual information form and fund facts documents (collectively, the **Offering Documents**) of the Proposed Fund, and unreasonable to incur the costs and expenses associated therewith, so that the Offering Documents of the Proposed Fund can be filed earlier with the renewal simplified prospectus, annual information form and fund facts documents (the **Renewal Documents)** of the Fund.

19. The Filer may make minor changes to the features of the Fund as part of the process of renewing the Current Prospectus. The ability to file the simplified prospectus of the Fund with that of the Proposed Fund will ensure that the Filer can make the operational and administrative features of the Fund and the Proposed Fund consistent with each other, if necessary.

20. In the absence of this decision, NI 81-101 requires that the Fund file a final simplified prospectus, annual information form and fund facts along with the written consent of the auditor by February 16, 2020. If the Exemption Sought is not granted, it will be necessary to renew the Current Prospectus twice within a short period of time in order to consolidate the simplified prospectus of the Fund with the simplified prospectus of the Proposed Fund.

21. The Filer proposes:

    a) to file a combined preliminary and *pro forma* simplified prospectus, annual information form and fund facts in respect of the Fund and the Proposed Fund by March 16, 2020; and

    b) to file the final simplified prospectus, annual information form and fund facts in respect of the Fund and Proposed Fund along with the written consent of the auditor on or about April 25, 2020.

22. There have been no material changes in the affairs of the Fund since the date of the Current Prospectus, other than those for which amendments have been filed. Accordingly, the Current Prospectus represents current and accurate information regarding the Fund.

23. Given the disclosure obligations of the Filer and the Fund, should any material changes occur, the Current Prospectus will be amended as required under the Legislation.

24. New investors who purchase securities of the Fund after February 6, 2020 will be sent or delivered the most recently filed fund facts documents of the Fund. The amended and restated simplified prospectus dated July 19, 2019 amending and restating the amended and restated simplified prospectus dated March 15, 2019 amending and restating the amended and restated simplified prospectus dated February 27, 2019, amending and restating the simplified prospectus dated February 6, 2019 and the amended and restated annual information form dated July 19, 2019 amending and restating the amended and restated annual information form dated March 15, 2019 amending and restating the amended and restated annual information form dated February 27, 2019, amending and restating the annual information form dated February 6, 2019 will still be available to investors upon request.

25. The Exemption Sought will not affect the currency or accuracy of the information contained in the Current Prospectus 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 McKall"
Manager,
Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.6 EquiLend Canada Corp.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from requirements for securities permitted to be traded on an ATS and from pre-trade and post-trade information transparency requirements – Relief needed to accommodate the full range of securities lending transactions on the Filer's trading platform and to reflect the lack of pre-trade and post-trade transparency in the securities lending market – National Instrument 21-101 Marketplace Operation.

Applicable Legislative Provisions

National Instrument 21-101 Marketplace Operation, ss. 6.3, 7.2, 7.4, 8.1(3), 8.2(3), and 15.1.

December 19, 2019

IN THE MATTER OF
THE SECURITIES LEGISLATION OF ONTARIO
(THE JURISDICTION)

AND

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

AND

IN THE MATTER OF
EQUILEND CANADA CORP.
(THE FILER)

DECISION

Background

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

(a) exempt from section 6.3 of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) so that users of the Filer's platform (**Platform**) can borrow and lend debt securities described in Schedule 1 (as Schedule 1 may be amended from time to time through an amendment to Form 21-101F2);

(b) exempt from sections 7.2 and 7.4 of NI 21-101 to relieve the Filer from the transparency requirements in respect of trades in exchange-traded securities and foreign exchange-traded securities executed on the Platform resulting from securities lending transactions; and

(c) exempt from subsections 8.1(3) and 8.2(3) of NI 21-101 to relieve the Filer from the transparency requirements in respect of trades in corporate debt securities and government debt securities executed on the Platform resulting from securities lending transactions (collectively, the **Exemption Sought**).

Under the Process for Exemptive Relief 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 the province of Quebec.

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 Nova Scotia limited company organized on April 17, 2008 and is a wholly-owned subsidiary of EquiLend Holdings LLC (**EquiLend Holdings**);

2. The Filer is registered as an investment dealer in Ontario and Quebec and is also a member of the Investment Industry Regulatory Organization of Canada (Ontario District) (**IIROC**) for the purposes of operating as an alternative trading system (**ATS**) in Ontario and Quebec;

3. Through subsidiaries of EquiLend Holdings, including the Filer (the **Subsidiaries**), the Platform is operated in the U.S., the U.K., Ireland, the European Union, Hong Kong, Australia and Canada;

4. The Platform facilitates securities lending and borrowing transactions in equities and fixed income securities by providing secure access and connectivity between potential borrowers and lenders through a private network or the internet;

5. The Filer will offer access to the Platform for the purpose of securities lending and borrowing transactions in equities and fixed income securities to Authorized Users (as defined in Schedule 2), in the Provinces of Ontario and Quebec that have represented to the Filer through the Filer's user agreement (**User Agreement**) or by way of a separate formal representation that their conduct of securities lending is subject to a level of regulation and oversight (under applicable securities, banking or other appropriate law) that imposes upon the participant a combination of requirements such as audits, public disclosure of financial information, capital rules, collateral requirements, record keeping requirements or other similar safeguards (**Participants**);

6. The Filer will be the sole party furnishing access to the Platform in Ontario and Quebec to Participants;

7. Participants, through the Filer, will be able to engage in securities borrowing and lending transactions with non-Participants who have been granted access to the Platform through Subsidiaries on substantially similar terms as the Participants;

8. Securities traded over the Platform include "foreign exchange traded securities" and "exchange-traded securities" (**Permitted Equity Securities**) within the meaning of NI 21-101 and those debt securities described in Schedule 1;

9. Section 6.3 of NI 21-101 provides that an ATS can only execute trades in exchange-traded securities, corporate debt securities, government debt securities, or foreign exchange-traded securities, as defined in section 1.1 of NI 21-101;

10. The relief from Section 6.3 is needed to accommodate the full range of securities lending and borrowing activity in international securities that can occur currently under the Platform and the relief from sections 7.2, 7.4, 8.1 and 8.2 is required to be consistent with the limited transparency that exists in and is required in the securities lending environments in both Canada and internationally;

11. Sections 7.2 and 7.4 of NI 21-101 impose post-trade transparency requirements for exchange-traded securities and foreign exchange-traded securities. Subsections 8.1(3) and 8.2(3) of NI 21-101 impose

post-trade transparency requirements for government debt securities and corporate debt securities;

12. Pre-trade transparency requirements are not applicable to EquiLend pursuant to sections 7.1 and 8.1 of NI 21-101 because orders capable of acceptance in foreign exchange-traded securities and exchange-traded securities and debt securities will not be displayed on the Platform;

13. By order cited as *In the Matter of Equilend Canada Inc.* (2014), 37 OSCB, the Filer had been granted in Ontario relief substantially similar to the Exemption Sought (the **2014 Order**). The 2014 Order will expire not later than December 31, 2019. The effect of the Exemption Sought will be to replace and extend the 2014 Order with effect as of and from January 1, 2020.

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 effective January 1, 2020 provided that:

1. The Filer provides access to the Platform in Canada only to Participants;

2. the Platform only executes trades with respect to Permitted Equity Securities and the securities listed in Schedule 1 (as Schedule 1 may be amended from time to time through an amendment to Form 21-101F2); and

3. The Filer is exempt from the requirements in sections 7.2 and 7.4 and subsections 8.1(3) and 8.2(3) of NI 21-101 until the earlier of December 31, 2024, or the implementation by the Commission of a rule, policy, or notice relating to the transparency of securities lending transactions.

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

SCHEDULE 1

The following non-Canadian debt securities are offered through the Platform:

(a) high-grade and high-yield U.S. corporate bonds;

(b) U.S. Government-sponsored agency bonds;

(c) U.S. Government debt securities (e.g., Treasury Bonds, Treasury Notes, etc.);

(d) emerging market bonds, which are defined as U.S. dollar or Euro-denominated bonds issued by sovereign entities or corporations domiciled in a developing country, including both high grade and non-investment grade debt;

(e) European high-grade and high-yield corporate bonds, which are defined as corporate bonds issued by entities domiciled in Europe; and

(f) non-U.S. sovereign government bonds (e.g., UK gilts or German bundesbonds).

SCHEDULE 2

In this Decision Document, "Authorized Users" means:

(a) a bank listed in Schedule I or II of the *Bank Act* (Canada), or an authorized foreign bank listed in Schedule III of that Act;

(b) the Business Development Bank incorporated under the *Business Development Bank Act* (Canada);

(c) a loan corporation, trust company, trust corporation, savings company or loan and investment society registered under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in any province or territory of Canada;

(d) a co-operative credit society, credit union central, federation of caisses populaires, credit union or league, or regional caisse populaire, or an association under the *Cooperative Credit Associations Act* (Canada), in each case, located in Canada;

(e) a company licensed to do business as an insurance company in a province or territory of Canada;

(f) a subsidiary of any company referred to in paragraph (a), (b), (c), (d) or (e), where the company owns all of the voting shares of the subsidiary;

(g) a financial services cooperative within the meaning of *the Act respecting Financial Services Cooperatives* (Quebec);

(h) the Caisse centrale Desjardins du Québec established under *the Act respecting the Mouvement des Caisses Desjardins* (Quebec) and the Caisse de dépôt et placement du Québec;

(i) a person or company registered under the securities legislation of the applicable province or territory of Canada as an adviser or dealer, other than a limited market dealer;

(j) the government of Canada or of any jurisdiction, or any crown corporation, instrumentality or agency of a Canadian federal, provincial or territorial government;

(k) any Canadian municipality or any Canadian provincial or territorial capital city;

(l) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any instrumentality or agency thereof;

(m) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission or similar regulatory authority;

(n) a registered charity under the *Income Tax Act* (Canada);

(o) a company, limited partnership, limited liability partnership, trust or estate, other than a mutual fund or non-redeemable investment fund, that had net assets of at least C$5,000,000 as reflected in its most recently prepared financial statements;

(p) a person or company, other than an individual, that is recognized or designated by a Canadian securities regulatory authority as an "accredited investor" or by the Autorité des marchés financiers as a "sophisticated purchaser";

(q) a mutual fund or non-redeemable investment fund that, in the applicable province of Canada, distributes its securities only to persons or companies that are accredited investors;

(r) a mutual fund or non-redeemable investment fund that, in the applicable province of Canada, distributes its securities under a prospectus for which a receipt has been granted;

(s) an account that is fully managed by a registered portfolio manager or an entity listed in paragraphs (a), (c), (d) or (e);

(t) an entity organized outside of Canada that is analogous to any of the entities referred to in paragraphs (a) through (f) and paragraph (m) in form and function; and

(u) a person or company in respect of which all of the owners of interests, direct or indirect, legal or beneficial, are persons or companies that are Institutional Investors; provided that:

i. two or more persons who are the joint registered holders of one or more securities of the issuer shall be counted as one beneficial owner of those securities; and

ii. a corporation, partnership, trust or other entity shall be counted as one beneficial owner of securities of the issuer unless the entity has been created or is being used primarily for the purpose of acquiring or holding securities of the issuer, in which event each beneficial owner of an equity interest in the entity or each beneficiary of the entity, as the case may be, shall be counted as a separate beneficial owner of those securities of the issuer.

2.1.7 Contact Gold Corp.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions -National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards **(NI 52-107)** – the Filers request relief from the requirements under sections 3.2(1) and 3.3(1) of NI 52-107 that financial statements be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises to permit the Filers to prepare their financial statements in accordance with the U.S. GAAP and be audited under U.S. GAAS.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Principles and Auditing Standards, ss. 3.2, 3.3.

December 24, 2019

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

AND

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

AND

IN THE MATTER OF
CONTACT GOLD CORP.
(the Filer)

DECISION

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an ongoing exemption from the requirement in subsections 3.2(1) and 3.3(1) of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107) that financial statements of the Filer, other than acquisition statements, be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and, if applicable, audited in accordance with Canadian GAAS (the Exemptive Relief Sought).

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

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

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

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

Interpretation

¶ 2 Terms defined in National Instrument 14-101 *Definitions*, NI 52-107 and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

Background

1. the Filer is a corporation incorporated under the laws of the State of Nevada; the registered office of the Filer is located at 4625 W. Nevso Drive, Suite 2, Las Vegas, Nevada 89103 and its head office is located at Suite 1050, 400 Burrard Street, Vancouver, British Columbia, V6C 3A6;

2. the Filer is a junior gold exploration company and holds, through its subsidiary Clover Nevada II LLC (Clover Nevada), a 100% interest in a portfolio of gold properties including the Pony Creek, North Star and Dixie Flats properties (the Contact Gold Properties);

3. all the Contact Gold Properties are located in Nevada, United States, and constitute all of the material assets of the Filer;

4. the Filer is an entity resulting from the completion of a reverse take-over transaction completed in June 2017, which involved a court approved statutory plan of arrangement under the *Business Corporations Act* (British Columbia) and the acquisition of Clover Nevada from Waterton Precious Metals Fund II Cayman, LP (the RTO); as part of the RTO, the Filer was continued from British Columbia into Nevada;

5. the Filer's main focus is advancing its flagship Pony Creek property, located in Nevada and the principal business of the Filer is conducted in the United States; the Filer files United States corporate tax returns with Internal Revenue Services and a number of the Filer's personnel are U.S. persons, employed and residing in the United States;

6. the shares of the Filer are listed on the TSX Venture Exchange (the TSXV);

7. a majority of the Filer's shares are beneficially owned by residents of the United States;

8. the Filer is a reporting issuer in each of the provinces and territories of Canada other than Québec; the Filer is not in default of securities legislation in any jurisdiction of Canada;

United States Securities Laws Matters

9. the Filer is a U.S. domestic issuer as such term is defined in Rule 902(e) of Regulation S under the 1933 Act;

10. the Filer is not and does not intend to be registered or reporting under the 1934 Act;

11. as a U.S. domestic issuer (a) all securities issued by the Filer (including those sold outside of the United States) in private placement transactions are restricted securities under Rule 144 of the 1933 Act (Rule 144) and subject to a one-year hold period unless the Filer registers or qualifies the offer and sale of such securities under the 1933 Act, and (b) resales of restricted securities are not eligible for resale through the facilities of the TSXV under Rule 904 of Regulation S, as is typical for foreign private issuers (i.e., non-U.S. domestic issuers);

12. in order for the Filer to issue securities that are not restricted securities, offerings of securities are required to be qualified either by filing (a) a Form S-1 with the SEC, or (b) a Form 1-A under Regulation A under the 1933 Act (Reg A Offering);

13. Regulation A is intended to assist earlier-stage companies to raise financing in a cost-effective manner and provides an exemption from registration for public offerings; Regulation A has two tiers: (a) Tier 1, for offerings of up to $20 million in a 12-month period and (b) Tier 2, for offerings of up to $50 million in a 12-month period; certain basic requirements apply to both Tier 1 and Tier 2 offerings, including issuer eligibility requirements, bad actor disqualification provisions and disclosure; additional requirements apply to Tier 2 offerings, including requirements for audited financial statements and the filing of ongoing reports;

14. Regulation A is available to both U.S. domestic issuers and Canadian issuers;

15. the Filer completed a Tier 2 Reg A Offering in May 2019 by filing a Form 1-A (the U.S Offering Statement) with the SEC, which was subject to a full review and comment period by the SEC, and which was qualified by the SEC on May 14, 2019;

16. concurrently with the qualification of the U.S. Offering Statement, the Filer also filed a prospectus supplement dated May 13, 2019 (the Supplement) to the short form base shelf prospectus dated October 24, 2018 (the Base Shelf Prospectus and together with the Supplement, the Canadian Prospectus) with the Canadian securities regulatory authorities;

17. the Filer's auditor is Ernst & Young LLP, Certified Public Accountants;

18. Regulation A permits Canadian issuers to prepare financial statements in accordance with IFRS; this exemption is not available to the Filer because it is a U.S. domestic issuer;

19. as a U.S. domestic issuer, Regulation A requires the Filer to prepare financial statements in accordance with U.S. GAAP, and Tier 2 requires that annual financial statements be audited in accordance with either U.S. AICPA GAAS or U.S. PCAOB GAAS, and the report and qualifications of the independent accountant must comply with the requirements of Article 2 of Regulation S-X; the U.S. Offering Statement filed with the SEC in the Reg A Offering contained annual and interim financial statements prepared in accordance with U.S. GAAP and audited or reviewed, as applicable, in accordance with U.S. PCAOB GAAS standards; the audit report of the Filer's auditor complied with the requirements of Article 2 of Regulation S-X;

20. the Canadian Prospectus contained annual and interim financial statements prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and audited or reviewed, as applicable, in accordance with Canadian GAAS;

Financial Statement Requirements and SEC Disclosure Obligations

21. the Filer is a reporting issuer in Canada and does not meet the definition of "SEC issuer" under NI 52-107 and is therefore required under Canadian securities legislation to prepare and audit its financial statements in compliance with Canadian GAAP applicable to publicly accountable enterprises and in accordance with Canadian GAAS;

22. as a U.S. domestic issuer relying on Tier 2 of Regulation A, the Filer is subject to ongoing reporting obligations requiring the Filer to file the following ongoing reports:

    (a) Form 1-K annual reports within 120 calendar days after the end of the Filer's financial year, which must include, among other things, certain information relating to the business of the issuer as well as a management's discussion and analysis of financial condition and results of operations (MD&A) and financial statements for the year end prepared in accordance with U.S. GAAP and audited in accordance with U.S. AICPA GAAS or U.S. PCAOB GAAS;

    (b) Form 1-SA semi-annual reports within 90 calendar days after the end of the six-month period covered by such report, which must include MD&A and financial statements prepared in accordance with U.S. GAAP; and

    (c) Form 1-U current reports within four business days following a disclosable event, which includes, among other things, fundamental changes, bankruptcy or receivership, material modifications to rights of securityholders, changes in control, departure of certain officers, certain unregistered sales of equity securities and other events deemed by an issuer to be important to its securityholders;

23. the Filer intends to voluntarily submit on Form 1-U its U.S. GAAP quarterly financial statements and MD&A for the first and third fiscal quarters to satisfy the "adequate public information" or "reasonably current information" requirements under Rule 144 and Rule 144A of the 1933 Act in order to rely on exemptions which permit public resales of restricted or control securities without registering such resales with the SEC;

24. SEC issuers may prepare and file their financial statements in accordance with U.S. GAAP to meet their continuous disclosure obligations under Canadian securities legislation;

25. the accounting differences between U.S. GAAP and Canadian GAAP applicable to publicly accountable enterprises for the Filer are currently relatively minimal, and due to the nature of its current business, the Filer does not anticipate the extent of accounting differences between U.S. GAAP and Canadian GAAP to be significant in the future; however, there are differences in characterization or classification that can occur on corporate transactions which can have recurring impacts, for example, the accounting for a reverse takeover transaction, or in relation to the valuation of assets acquired; where elections, policy choices or judgment have been permitted under Canadian GAAP applicable to publicly accountable enterprises, the Filer has sought to align its accounting treatment and disclosures to align with those required under U.S. GAAP so as to minimize the differences;

26. the Filer is a junior mineral exploration company that anticipates undertaking future offerings under Regulation A to finance its exploration activities; and

27. the Filer will continue filing all other continuous disclosure documents in compliance with NI 51-102 *Continuous Disclosure Obligations* and file audited annual financial statements accompanied by an auditor's report prepared by a public accounting firm in compliance with NI 52-108 *Auditor Oversight*.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted provided that, at the time of filing the financial statements, the Filer is a U.S. domestic issuer relying on Tier 2 of Regulation A and is required to file with the SEC the ongoing reports set out in section 22.

This relief will expire on the date that is 36 months plus one day after the date of qualification of the most recent Reg A Offering by the Filer that was subject to review by the SEC.

"Nigel P. Cave"
Vice Chair
British Columbia Securities Commission

2.1.8 Caldwell Investment Management Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to facilitate the offering of exchange-traded series and conventional mutual fund series within same fund structure – relief granted to exchange-traded series of conventional mutual funds for continuous distribution of securities – relief to permit funds' prospectus to not include an underwriter's certificate – relief from take-over bid requirements for normal course purchases of securities on the TSX – relief granted from the requirement to prepare and file a long form prospectus for exchange-traded series provided that a simplified prospectus is prepared and filed – exchange-traded series and mutual fund series referable to same portfolio and have substantially identical disclosure – relief permitting all series of funds to be disclosed in same prospectus – disclosure otherwise required in long form prospectus for exchange-traded series and not contemplated by simplified prospectus form will be disclosed in prospectus under relevant headings – National Instrument 41-101 General Prospectus Requirements, National Instrument 62-104 Take-Over Bids and Issuer Bids, Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 59(1) and 147.
National Instrument 41-101 General Prospectus Requirements, ss. 3.1(2) and 19.1.
National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

December 6, 2019

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

AND

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

AND

IN THE MATTER OF
CALDWELL INVESTMENT MANAGEMENT LTD.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of Caldwell U.S. Dividend Advantage Fund (the **Existing Fund**) and such other mutual funds as are or may be managed by the Filer in the future that offer both ETF Securities (as defined

below) and Mutual Fund Securities (as defined below) (the **Future Funds**, and together with the Existing Fund, the **Funds**), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that:

(a) exempts the Filer and each Fund from the requirement in National Instrument 41-101 *General Prospectus Requirements* to prepare and file a long form prospectus in the form prescribed by Form 41-101F2 *Information Required in an Investment Fund Prospectus* (**Form 41-101F2**) (the **ETF Prospectus Form Requirement**) for the ETF Securities, provided that the Fund files a simplified prospectus (**SP**) in the form prescribed by Form 81-101F1 *Contents of Simplified Prospectus* (**Form 81-101F1**) and annual information form (**AIF**) in the form prescribed by Form 81-101F2 *Contents of Annual Information Form* (**Form 81-101F2**) in accordance with the provisions of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) for the ETF Securities (the **Prospectus Form Relief**);

(b) exempts the Filer and each Fund from the requirement to include a certificate of an underwriter in a Fund's prospectus (the **Underwriter's Certificate Requirement**) in respect of each class or series of ETF Securities (the **Underwriter's Certificate Relief**); and

(c) exempts a person or company purchasing ETF Securities in the normal course through the facilities of the TSX (as defined below) or another Marketplace (as defined below) from the Take-Over Bid Requirements (as defined below) (the **Take-Over Bid Relief**, and together with the Prospectus Form Relief and Underwriter Certificate Relief, 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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Canadian Jurisdictions**).

Interpretation

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

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

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

Basket of Securities means, in relation to the ETF Securities of a Fund, a group of securities or assets representing the constituents of the Fund.

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

ETF Securities means securities of an exchange-traded class or series of a Fund that are listed or will be listed on the TSX or another Marketplace and that will be distributed pursuant to an SP prepared in accordance with NI 81-101 and Form 81-101F1.

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

Mutual Fund Securities means securities of a non-exchange-traded class or series of a Fund that are or will be distributed pursuant to an SP prepared in accordance with NI 81-101 and Form 81-101F1.

Other Dealer means a registered dealer that is not an Authorized Dealer, Designated Broker or Affiliate Dealer.

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

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than

midnight on the second business day after entering into that agreement.

Securityholders means beneficial or registered holders of ETF Securities or Mutual Fund Securities of a Fund, as applicable.

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

TSX means the Toronto Stock Exchange.

Representations

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

The Filer and the Funds

1. The Filer is a corporation incorporated under the laws of the Province of Ontario.

2. The head office of the Filer is located at 150 King Street West, Suite 1702, P.O. Box 47, Toronto, Ontario, M5H 1J9.

3. The Filer is a registered portfolio manager and investment fund manager in Ontario.

4. The Filer is, or will be, the manager of the Funds. The Filer is, or will be, the trustee of the Funds that are established as trusts.

5. The Filer is not in default of securities legislation in any of the Canadian Jurisdictions.

6. The Existing Fund is a mutual fund established under the laws of the Jurisdiction as a trust. Each Future Fund will be a mutual fund established under the laws of a Canadian Jurisdiction as either a trust or a corporation or a class thereof. Each Fund is, or will be, a reporting issuer in the Canadian Jurisdictions in which its securities are distributed.

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

8. The Existing Fund currently offers three series of Mutual Fund Securities, specifically Series A, Series D and Series F, under an SP, AIF and fund facts documents (**Fund Facts**), all dated July 19, 2019.

9. In December 2019, an amended and restated SP and amended and restated AIF for the Existing Fund, as well as ETF facts documents (**ETF Facts**) for each class or series of ETF Securities of the Existing Fund, will be filed with the securities regulatory authorities in each of the Canadian Jurisdictions.

10. The Filer will apply to list the ETF Securities of each of the Funds on the TSX or another Marketplace. The Filer will not file a final prospectus or an amendment to a prospectus in respect of ETF Securities of any of the Funds until the TSX or other applicable Marketplace has conditionally approved the listing of such ETF Securities.

11. The Existing Fund is not in default of securities legislation in any of the Canadian Jurisdictions.

12. Mutual Fund Securities may be subscribed for or purchased directly from a Fund through mutual fund dealers, investment dealers and their representatives that are registered under applicable securities legislation in the Canadian Jurisdictions.

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

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

15. Each Designated Broker or Authorized Dealer that subscribes for Creation Units must deliver, in respect of each Prescribed Number of ETF Securities to be issued, a Basket of Securities and/or cash in an amount sufficient so that the value of the Basket of Securities and/or cash delivered is equal to the net asset value of the ETF Securities subscribed for next determined following the receipt of the subscription order. In the discretion of the Filer, the Funds may also accept subscriptions for Creation Units in cash only, in securities other than Baskets of Securities and/or in a combination of cash and securities

other than Baskets of Securities, in an amount equal to the net asset value of the ETF Securities subscribed for next determined following the receipt of the subscription order.

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

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

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

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

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

Prospectus Form Relief

21. The Filer believes it is more efficient and expedient to include all of the series of Mutual Fund Securities and ETF Securities of each Fund in one prospectus form instead of two different prospectus forms. The Filer believes that this presentation will assist in providing full, true and plain disclosure of all material facts relating to the different investment options available to investors seeking exposure to the investment strategy of a particular Fund in one, comprehensive disclosure document.

22. An ETF Facts, rather than a Fund Facts, will still be filed in respect of each class or series of ETF Securities.

23. The Filer will ensure that any additional disclosure included in the SP and AIF relating to the ETF Securities will not interfere with an investor's ability to differentiate between the Mutual Fund Securities and the ETF Securities and their respective attributes.

24. The Funds will comply with the provisions of NI 81-101 when filing any prospectus or amendment thereto.

Underwriter's Certificate Relief

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

26. The Filer will generally conduct its own marketing, advertising and promotion of the Funds.

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

28. In addition, neither the Filer nor the Funds will pay any fees or commissions to the Designated Brokers and Authorized Dealers. As the Designated Brokers and Authorized Dealers will not receive any remuneration in connection with distributing ETF Securities and as the Authorized Dealers will change from time to time, it is not practical to provide an underwriters' certificate in the prospectus of the Funds.

Take-Over Bid Relief

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

    (a) it will not be possible for one or more Securityholders to exercise control or direction over a Fund as the constating documents of each Fund provide that there can be no changes made to such Fund which do not have the support of the Filer;

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

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

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

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:

1. the Prospectus Form Relief is granted provided that:

    (a) the Filer files an SP and AIF in respect of the ETF Securities in accordance with the requirements of NI 81-101, Form 81-101F1 and Form 81-101F2, other than the requirements pertaining to the filing of a Fund Facts;

    (b) the Filer includes disclosure required pursuant to Form 41-101F2 (that is not contemplated by Form 81-101F1 or Form 81-101F2) in respect of the ETF Securities, in each Fund's SP and/or AIF, as applicable; and

    (c) the Filer includes disclosure regarding this decision under the heading "Additional Information" and "Exemptions and Approvals" in each Fund's SP and AIF, respectively.

2. the Underwriter's Certificate Relief is granted; and

3. the Take-Over Bid Relief is granted.

As to the Prospectus Form Relief and Take-Over Bid Relief:

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

As to the Underwriter's Certificate Relief:

"Poonam Puri"
Commissioner
Ontario Securities Commission

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

2.1.9 R.J. O'Brien & Associates Canada Inc.

Headnote

Application for an order pursuant to section 80 of the Commodity Futures Act granting relief from sections 42, 43, 44 and 45 which contain requirements to deliver confirmations and statements to customers in the context of give-up transactions.

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 42, 43, 44, 45 and 80.

December 23, 2019

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

AND

IN THE MATTER OF
R.J. O'BRIEN & ASSOCIATES CANADA INC.
(the Applicant)

DECISION

UPON the application (the **Application**) by R.J. O'Brien & Associates Canada Inc. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for a decision pursuant to section 80 of the CFA granting relief from sections 42, 43, 44 and 45 of the CFA which contain the requirement to deliver certain confirmations and statements of trade to customers in respect of trades in commodity futures contracts and commodity futures options (collectively, **Futures Contracts**) in the context of trade "give-ups".

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is a corporation formed under the laws of the Canada Business Corporations Act.

2. The head office of the Applicant is located in Toronto, Ontario.

3. The Applicant is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**). The Applicant is also registered as an approved participant on the Bourse de Montreal (MX).

4. The Applicant is registered as an investment dealer under the securities legislation of all the provinces of Canada to trade securities and as a futures commission merchant under the commodity futures legislation of Ontario and Manitoba to trade in Futures Contracts. The Applicant is also registered as a dealer under the derivatives legislation of Quebec.

5. Subject to the matter to which this decision relates, the Applicant is not in default of securities or commodity futures legislation in any jurisdiction in Canada.

6. The Applicant engages in the following two, distinct types of customer trading relationships: (a) the Applicant acts as executing and introducing broker for customers; and (b) the Applicant acts solely as executing broker in give-up transactions.

7. With regards to the Applicant acting as executing broker in give-up transactions, the Applicant only provides trading services to "institutional customers" as defined in IIROC Rule 1.1 (**Institutional Customers**).

8. **Give-up Transactions** are purchases or sales of Futures Contracts by investors, each of whom is an Institutional Customer, that have an existing relationship as a client with a clearing broker but wish to use the trade execution services of one or more dealers and executing brokers for the purpose of executing such purchases or sales. Following execution of such purchases and sales, the executing brokers "give-up" the Give-up Transaction to the Institutional Customer's clearing broker for clearing, settlement and/or custody (**Give-up Arrangement**). The service provided by the Applicant pursuant to the Give-up Arrangement is limited to trade execution only.

   The clearing broker maintains an account for each Institutional Customer that is administered in accordance with the terms and conditions of the account documentation of the clearing broker that has been signed by the Institutional Customer.

9. For a Give-up Transaction, the Institutional Customer does not open an account with the Applicant and the Applicant does not receive any money, securities, margin or collateral from the Institutional Customer.

10. The Give-up Arrangement is made by agreements entered into between the Institutional Customer, the Applicant and the clearing broker in respect of the Give-up Arrangement.

11. Although the Applicant is responsible for record-keeping, bookkeeping, custody and other administrative functions (**Account Services**) in respect of its own clients, it does not provide Account Services for execution-only customers in Give-up Transactions. Such Account Services remain the responsibility of those clients' clearing brokers.

12. The Applicant does, however, records in its own books and records and accounting system all Give-up Transactions that it executes, which generally comprise those Futures Contract positions held by it that are not allocated to any of

its own Institutional Customer accounts. The Applicant communicates these unallocated positions to the relevant clearing brokers who either accept or reject the positions so allocated on behalf of their clients based on existing Give-up Arrangements. If a clearing broker rejects a proposed allocation, the Applicant contacts the person who executed the trade to obtain clarifying instructions and then allocates the position in accordance with the instructions so received.

13. The Applicant prepares monthly or transaction-by-transaction invoices detailing all Give-up Transactions (including the amount of any commissions to the Applicant for execution thereof) that the Applicant conducted during the month for each Institutional Customer pursuant to a Give-up Arrangement. The Applicant delivers such invoices to the clearing broker who then reconciles the Give-up Transactions with its own records.

14. The clearing broker will have the primary relationship with the Institutional Customers and is responsible for risk monitoring, overall trade monitoring as well as reporting trade confirmations and sending out statements of account.

15. The clearing broker is subject to the trade confirmation requirements and statement of account requirement in respect of its Institutional Customers in Give-up Transactions.

16. The Applicant does not require analogous relief from the securities legislation, specifically, sections 14.12 and 14.14 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) and section 36(1) of the *Securities Act* (Ontario) (**Act**). There are exemptions available under NI 31-103 for IIROC member dealers provided they comply with the corresponding IIROC provisions in effect.

17. Once the appropriate relief from IIROC, which is subject to this relief, is obtained, the Applicant will be in compliance with IIROC requirements relating to the maintenance of records of executed transactions and in particular IIROC Dealer Member Rule 200.2(l) Trade Confirmations and 200.2(d) Client Account Statements.

18. Section 42 of the CFA requires that a registered dealer that has acted as an agent in connection with a trade in a Futures Contract promptly send customers a written confirmation of trade.

19. Section 43 of the CFA requires that a registered dealer that has acted as an agent in connection with a liquidating trade in a Futures Contract promptly send customers a written statement of purchase and sale.

20. Section 44 of the CFA requires that registered dealers send customers a written monthly statement.

21. Section 45 of the CFA requires that a registered dealer that has acted as an agent in connection with a trade in a Futures Contract send customers a written confirmation of a trade.

22. The Applicant is seeking a decision from the Commission pursuant to section 80 of the CFA that it be exempt from the sections 42, 43, 44 and 45 of the CFA with respect to give-up arrangements because the imposition of those requirements is unnecessary, duplicative and not industry practice globally in the derivatives market.

23. The Applicant has been advised by IIROC that the OSC exemption must be granted first before IIROC will grant similar relief.

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

THE DECISION of the Commission is that the Applicant is exempt from the requirements of sections 42, 43, 44 and 45 of the CFA for the purposes of the Applicant acting as executing broker for give-up transactions, provided that:

a) the Applicant remains registered as a futures commission merchant and a member of IIROC;

b) the Applicant acting as executing broker in Give-Up Transactions only provides trading services to Institutional Customers;

c) the Applicant enters into a give-up agreement with the clearing broker and the customer; and

d) the clearing broker has agreed to provide customers with written trade confirmations and statements of account that include information for any Give-Up Transactions subject to this relief.

“Craig Hayman”
Commissioner
Ontario Securities Commission

“Raymond Kindiak”
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 Dream Global Real Estate Investment Trust

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).

December 23, 2019

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

AND

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

AND

IN THE MATTER OF
DREAM GLOBAL REAL ESTATE INVESTMENT TRUST
(the Filer)

ORDER

Background

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

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

1. the Ontario Securities Commission is the principal regulator for this application; and

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

2.2.2 Donna Hutchinson et al. – ss. 127(1), 127.1

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

File No. 2017-54

Timothy Moseley, Vice-Chair and Chair of the Panel

January 2, 2020

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

WHEREAS the Ontario Securities Commission (the **Commission**) held a hearing in writing to consider the sanctions and costs that the Commission should impose on Cameron Edward Cornish (**Cornish**) as a result of the findings in the Commission's Reasons and Decision on the merits, issued on October 23, 2019;

ON READING the materials filed by Staff of the Commission, no materials having been filed on behalf of Cornish, although properly served;

IT IS ORDERED THAT:

1. pursuant to paragraphs 7 and 8.1 of s. 127(1) of the Act, Cornish shall resign any positions he holds as a director or officer of an issuer or a registrant;

2. for a period of 15 years:

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

   b. pursuant to paragraph 2.1 of s. 127(1) of the Act, Cornish is prohibited from acquiring securities;

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

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

   e. pursuant to paragraph 8.5 of s. 127(1) of the Act, Cornish is prohibited from becoming or acting as a registrant or as a promoter;

3. pursuant to paragraph 9 of s. 127(1) of the Act, Cornish shall pay to the Commission an administrative penalty of $300,000, which amount shall be designated for allocation or use by the Commission in accordance with s. 3.4(2)(b) of the Act;

4. pursuant to paragraph 10 of s. 127(1) of the Act, Cornish shall be required to disgorge to the Commission the sum of $128,000, which amount shall be designated for allocation or use by the Commission in accordance with s. 3.4(2)(b) of the Act; and

5. pursuant to s. 127.1 of the Act, Cornish shall pay costs of $47,500 to the Commission.

"Timothy Moseley"

2.2.3 Majd Kitmitto et al.

IN THE MATTER OF
MAJD KITMITTO,
STEVEN VANATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING AND
FRANK FAKHRY

File No. 2018-70

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

January 3, 2020

ORDER

WHEREAS the Ontario Securities Commission (**Commission**) held a hearing in writing to consider a motion for an extension of time to serve Staff's expert response report, previously set by order of the Commission issued September 25, 2019;

ON READING the motion materials filed by Staff of the Commission (**Staff**) and considering that Majd Kitmitto, Donald Alexander (Sandy) Goss and John Fielding consent to the extensions sought;

IT IS ORDERED THAT:

1. Pursuant to section 5.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 and Rule 23 of the Commission's *Rules of Procedure and Forms* (2019), 42 OSCB 9714, this motion is heard in writing;

2. Staff shall serve all parties with any expert response report by no later than January 21, 2020; and

3. the Respondents shall serve all parties with any expert reply report by no later than February 7, 2020.

"D. Grant Vingoe"

2.2.4 Mogo Finance Technology Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Following a reverse takeover transaction, all of the issuer's common shares were acquired by another company; the issuer has debt securities outstanding that are held by more than 50 holders resident in Canada; there is no market for the debt securities; the issuer is not required under the terms of the debt instrument to remain a reporting issuer, but the holders of the debt securities are entitled to view financial statements of the issuer through the trustee; the issuer does not intend to do a public offering of its securities to Canadian residents; the acquiror is a reporting issuer and not in default of any securities legislation in any jurisdiction – Relief granted.

Applicable Legislative Provisions

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

December 30, 2019

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

AND

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

AND

IN THE MATTER OF
MOGO FINANCE TECHNOLOGY INC.
(the Filer)

ORDER

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for an order under the securities legislation of the Jurisdictions (the Legislation) that:

(a) the order granted to the Filer on August 12, 2019 (Previous Order) is revoked (Revocation Order), and

(b) the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (Cease to be Reporting Issuer Relief, and together with the Revocation Order, the Order Sought).

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

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

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

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

Interpretation

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

Representations

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

1. the Filer is a corporation existing under the *Business Corporations Act* (British Columbia) (the BCBCA) with its head office in Vancouver, British Columbia; it is the successor entity of Mogo Finance Technology Inc. (Pre-Transaction Mogo) by amalgamation;

2. Pre-Transaction Mogo was a reporting issuer in each jurisdiction of Canada and its common shares were listed on the Toronto Stock Exchange (TSX);

3. immediately prior to the Arrangement (as defined below), Pre-Transaction Mogo had the following outstanding securities:

   (a) 24,101,405 common shares (Mogo Shares);

   (b) 3,091,868 options to purchase Mogo Shares (Options);

   (c) 179,035 restricted share units that, upon vesting, entitled their holders to acquire Mogo Shares (RSUs);

   (d) 1,196,120 warrants to purchase Mogo Shares (Warrants); and

   (e) convertible debentures (Convertible Debentures) in the principal amount of $12,686,000;

4. immediately prior to the Arrangement (as defined below), Pre-Transaction Mogo also had non-convertible secured debentures (Non-Convertible Debentures) which are not convertible or exchangeable into any other voting or equity securities in the principal amount of $23,971,887, as follows:

   (a) Series A in the principal amount of $8,250,736 with an annual interest rate from 12.0% to 15.0% and maturity dates between July 2, 2020 and August 30, 2022;

   (b) Series B in the principal amount of $1,340,000 with an annual interest rate from 12.0% to 14.5% and maturity dates between July 2, 2020 and March 1, 2022;

   (c) Series C in the principal amount of $910,000 with an annual interest rate of 13.0% and maturity dates between July 2, 2020 and October 12, 2020;

   (d) Series D in the principal amount of $6,278,368 with an annual interest rate of 12.0% and maturity dates between July 2, 2020 and March 31, 2022;

   (e) Series E in the principal amount of $150,000 with an annual interest rate of 11.0% and a maturity date of August 1, 2020;

   (f) Series F in the principal amount of $76,406 with an annual interest rate of 10.0% and a maturity date of July 2, 2020;

   (g) Series BB in the principal amount of $1,470,000 with an annual interest rate from 12.0% to 17.0% and maturity dates between July 2, 2020 and March 1, 2022;

   (h) Series CC in the principal amount of $3,076,032 with an annual interest rate from 12.0% to 18.0% and maturity dates between July 2, 2020 and March 1, 2022;

   (i) Series EE in the principal amount of $100,000 with an annual interest rate of 15.0% and a maturity date of July 2, 2020;

(j) Series FF in the principal amount of $170,000 with an annual interest rate of 15.0% and a maturity date of July 2, 2020; and

(k) Series 1C in the principal amount of $2,150,345 with an annual interest rate of 14.0% and a maturity date of July 2, 2020;

5. as at December 1, 2019, the Filer has outstanding Non-Convertible Debentures in the principal amount of $24,465,220;

6. Mogo Inc., previously named Difference Capital Financial Inc. (Difference), was a reporting issuer in each of the provinces of Canada prior to the Arrangement (as defined below);

7. on June 21, 2019 (the Effective Date), Pre-Transaction Mogo completed a plan of arrangement (the Arrangement) involving a three-cornered amalgamation among Pre-Transaction Mogo, Difference and a subsidiary of Difference (Difference SubCo) under section 288 of the BCBCA; the Arrangement was a "reverse takeover" within the meaning of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102);

8. the Arrangement was approved by: (a) 99.90% of all votes cast by all of Pre-Transaction Mogo's shareholders and 99.83% of votes cast excluding certain interested shareholders at the annual and special meeting of Pre-Transaction Mogo's shareholders held on June 18, 2019; and (b) a final court order issued by the British Columbia Supreme Court on June 19, 2019;

9. under the Arrangement, Pre-Transaction Mogo and Difference SubCo amalgamated to form one corporate entity which is the Filer;

10. immediately prior to the completion of the Arrangement, Difference changed its name to "Mogo Inc."; as a result of the Arrangement, Difference became a reporting issuer in each of the jurisdictions of Canada and the common shares of Difference (each, a Difference Share) remained listed on the TSX with the news and trading history of Difference substituted for the news and trading history of Pre-Transaction Mogo;

11. under the Arrangement, the holders of Mogo Shares, other than Difference, received one Difference Share in exchange for each Mogo Share held, and Difference received shares of the Filer in exchange for its Mogo Shares; immediately after the Arrangement, Difference held, and continues to hold, all of the common shares of the Filer, and shareholders of Pre-Transaction Mogo held approximately 80% of the Difference Shares;

12. on completion of the Arrangement, Pre-Transaction Mogo's convertible securities became securities exercisable or convertible for Difference Shares as follows:

(a) the Options were exchanged in accordance with the terms of Pre-Transaction Mogo's option plan for options issued by Difference entitling their holders to receive Difference Shares;

(b) the RSUs were exchanged in accordance with the terms of Pre-Transaction Mogo's RSU plan for restricted share units issued by Difference entitling their holders to receive Difference Shares upon vesting;

(c) the Warrants were exchanged in accordance with the terms of the Arrangement for warrants of Difference exercisable for Difference Shares; and

(d) the Convertible Debentures were exchanged for debentures of Difference in accordance with the convertible debenture indenture dated June 6, 2017 between Pre-Transaction Mogo and Computershare Trust Company of Canada and the first supplemental convertible debenture indenture executed by the Filer, Difference and Computershare Trust Company of Canada on June 21, 2019;

13. the Mogo Shares and Convertible Debentures were delisted from the TSX on June 24, 2019;

14. in accordance with section 282(1)(h) of the BCBCA and the amended and restated deed of trust dated October 19, 2012 (the Deed of Trust), the Non-Convertible Debentures became debentures of the Filer as the successor entity of Pre-Transaction Mogo by amalgamation;

15. the Non-Convertible Debentures were sold between 2012 to present into provinces of British Columbia, Alberta and Ontario in reliance on the accredited investor exemption, family and friends exemption, minimum investment exemption and where applicable, private issuer exemption;

16. the Non-Convertible Debentures were never listed on any exchange or traded on any marketplace; no market exists for the Non-Convertible Debentures; the Deed of Trust prohibits the transfer of any Non-Convertible Debenture without approval of the Filer's directors;

17. the Filer is not required to remain a reporting issuer under the Deed of Trust, which was entered into three years prior to Pre-Transaction Mogo becoming a reporting issuer, or to otherwise complete any public reporting, no consents or approvals were required by the Non-Convertible Debenture holders to complete the Arrangement and the treatment of the Non-Convertible Debentures is consistent with the terms of their respective debenture agreements;

18. as a result of the Arrangement, Difference continued the business of the Filer; management of Difference is composed of Pre-Transaction Mogo's management prior to the Arrangement; while Difference still holds components of its own "predecessor" portfolio of investments, that portion of Difference's former business is now passive and immaterial to the new business of Difference, being the business of Pre-Transaction Mogo;

19. in accordance with IFRS 3 *Business Combinations*, the Arrangement was accounted for as a business combination with the Filer as the accounting acquiror; the financial statements of Difference have and will reflect the continuing financial statements of the Filer; holders of the Non-Convertible Debentures will receive all financial and other continuous disclosure information with respect to the Filer through the financial statement and other continuous disclosure filings of Difference;

20. the Filer is required to provide the trustee under the Deed of Trust with externally prepared annual financial statements within seven days of receipt by the Filer of such annual financial statements and consolidated internal statements of income and cash flows and balance sheet of the Filer and its subsidiaries for the quarter ended within 45 days after the end of each fiscal quarters (the Financial Statements);

21. under the Deed of Trust, the Non-Convertible Debenture holders are entitled to view, through the trustee, the Financial Statements and certain other records that have been provided to the trustee by the Filer under the Deed of Trust, provided that such information is held in confidence;

22. in its management information circular dated May 13, 2019 and news release issued on the Effective Date, Pre-Transaction Mogo (or the Filer, as applicable) disclosed that it intends to make an application to cease to be a reporting issuer following the Arrangement;

23. Difference is not in default of any securities legislation in any jurisdiction;

24. following the Arrangement, based on its records, the Filer had: (a) one holder of its common shares, being Difference; and (b) 92 holders of Non-Convertible Debentures, 79 of whom reside in Canada as follows: 61 in British Columbia; 11 in Alberta, and 7 in Ontario; and 15 of whom reside in jurisdictions outside of Canada; holders of Non-Convertible Debentures resident in Canada hold $18,130,351 of Non-Convertible Debentures;

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

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

27. the Filer has no intention to seek public financing by way of offering securities;

28. the Filer is not in default of any securities legislation in any jurisdiction, other than the obligation to file on or before August 14, 2019 and November 14, 2019, its interim financial statements and related management's discussion and analysis for the interim periods ended June 30,

2019 and September 30, 2019 respectively, as required by NI 51-102 and the related certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Interim Filings);

29. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* because its securities, including debt securities, are not 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 and the Filer is in default for failure to file the Interim Filings;

30. on July 12, 2019, the Filer submitted an application for an order that the Filer had ceased to be a reporting issuer (the Initial Application); in the Initial Application, the Filer inadvertently represented that the outstanding securities of the Filer, including debt securities, were 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;

31. on August 13, 2019, following receipt of the Previous Order, the Filer advised the principal regulator that it had failed to consider certain holders of the Non-Convertible Debentures at the time of making the Initial Application;

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

33. the Filer, upon the grant of the Order Sought, will no longer be a reporting issuer in any jurisdiction of Canada.

Order

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

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

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

2.2.5 NSR Resources 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).

[TRANSLATION]

Decision N°: 2020-IC-0001
File N°: 1054

January 6, 2020

**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
NSR RESOURCES 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,

(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 and Alberta;

(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*, in Regulation 11-102 and, in *Regulation 14-501Q respecting 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

2.2.6 PKM Canada Limited

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: *Re PKM Canada Limited*, 2020 ABASC 1

January 2, 2020

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

AND

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

AND

IN THE MATTER OF
PKM CANADA LIMITED
(the Filer)

ORDER

Background

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

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

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

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

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

"Tom Graham"
Director
Corporate Finance
Alberta Securities Commission

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Donna Hutchinson et al. – ss. 127(1), 127.1

Citation: *Hutchinson (Re)*, 2020 ONSEC 1
Date: 2020-01-02
File No. 2017-54

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

REASONS AND DECISION ON SANCTIONS AND COSTS
(Subsection 127(1) and section 127.1 of the *Securities Act*, RSO 1990, c S.5)

Hearing:	In writing	
Decision:	January 2, 2020	
Panel:	Timothy Moseley	Vice-Chair and Chair of the Panel
Submissions:	Matthew Britton Asli Eke (Student-at-law)	For Staff of the Commission
	No one appearing for Cameron Edward Cornish	
	Proceeding previously concluded as against Donna Hutchinson, David Paul George Sidders and Patrick Jelf Caruso	

REASONS AND DECISION ON SANCTIONS AND COSTS

I. OVERVIEW

[1] In a merits decision dated October 23, 2019 (the **Merits Decision**),[1] the Ontario Securities Commission (the **Commission**) found that the respondent Cameron Edward Cornish contravened s. 76(1) of the *Securities Act*[2] (the **Act**) by engaging in illegal insider trading in shares of two issuers. The Commission dismissed the remaining allegations made by Staff of the Commission (**Staff**) against Cornish, that he engaged in illegal insider trading in shares of one other issuer, and that he illegally communicated material non-public information with respect to a number of issuers to the respondents David Paul George Sidders and Patrick Jelf Caruso.

[2] The Commission dismissed Staff's allegations against Sidders and Caruso, that they engaged in illegal insider trading. The respondent Donna Hutchinson had previously settled the proceeding against her.[3]

[3] Staff requests that Cornish:

a. be banned from participation in the capital markets for 15 years;

b. pay an administrative penalty of $300,000;

c. disgorge to the Commission $128,000; and

d. pay $47,500 to the Commission for the costs of the investigation and the hearing.

[1] *Hutchinson (Re)*, 2019 ONSEC 36, (2019) 42 OSCB 8543
[2] RSO 1990, c S.5
[3] *Hutchinson (Re)*, (2018) 41 OSCB 3499 (Order), (2018) 41 OSCB 3500 (Settlement Agreement) and 2018 ONSEC 22, (2018) 41 OSCB 3841 (Oral Reasons and Decision)

[4] For the reasons that follow, I find that it is in the public interest to make an order on the above terms.

[5] Staff also requests that Cornish be reprimanded. I decline to make that order, as I explain below.

II. CORNISH'S ABSENCE FROM THE PROCEEDING

[6] As set out in paragraphs 23 to 26 of the Merits Decision, Cornish was given proper notice of the proceeding, but he failed to appear at any hearing, including the merits hearing. The proceeding continued in his absence.

[7] Even though Cornish is not entitled to further notice in the proceeding, the Commission stated in the Merits Decision that Cornish could, on or before December 13, 2019, file materials in response to those of Staff regarding sanctions and costs. The Merits Decision also contemplated that that deadline could be altered if ordered by the Commission on written request of Staff or Cornish filed on or before November 1, 2019. No such request was filed.

[8] On November 29, 2019, Staff filed its written submissions, its book of authorities, and an affidavit of Julia Ho sworn November 28, 2019, relating to costs. I have marked that affidavit as Exhibit 1 in this sanctions and costs hearing. Staff has also filed an affidavit of Laura Filice sworn November 28, 2019, in which she advises that on that day she served Cornish with all of Staff's materials. I have marked that affidavit of service as Exhibit 2 in this hearing.

[9] Cornish has neither communicated with the Registrar nor filed any materials.

III. ANALYSIS

[10] This hearing presents two principal issues:

a. Is it in the public interest to order sanctions against Cornish, and if so, what sanctions would be appropriate?

b. Should Cornish be ordered to pay costs regarding the investigation and hearing?

A. Sanctions

1. Legal framework

[11] Subsection 127(1) of the Act lists orders that the Commission may make where the Commission considers it to be in the public interest to do so. The Commission must exercise this jurisdiction in a manner consistent with the purposes of the Act, including the protection of investors from unfair, improper or fraudulent practices, and the fostering of fair and efficient capital markets and confidence in the capital markets.[4]

[12] The Supreme Court of Canada has held that the public interest jurisdiction and the orders listed in s. 127(1) of the Act are protective and preventative and are intended to be exercised to prevent future harm to Ontario's capital markets.[5]

[13] The Commission has identified a non-exhaustive list of factors to be considered with respect to sanctions generally, including the seriousness of the misconduct, the size of the profit made from the illegal conduct, any mitigating factors, and the likely effect that any sanction would have on the respondent ("specific deterrence") as well as on others ("general deterrence"). Sanctions must be proportionate to the respondent's conduct in the circumstances of the case.[6]

2. Summary of relevant facts

[14] In the Merits Decision, the Commission found that:

a. Cornish is an experienced professional trader who spent over 25 years working at various brokerage and capital management firms;[7]

b. Cornish had a close relationship with Hutchinson, who was a legal assistant at a Toronto-based law firm that worked on mergers and acquisitions;[8]

[4] The Act, s 1.1
[5] *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at paras 42-43
[6] *Bradon Technologies Ltd (Re)*, 2016 ONSEC 19, (2016) 39 OSCB 4907 at para 28; and at para 47, citing *Cartaway Resources Corp (Re)*, 2004 SCC 26 at para 60
[7] Merits Decision at para 10
[8] Merits Decision at paras 6, 12

c. Cornish was having financial trouble and induced Hutchinson to participate in a scheme by which in return for cash payments from Cornish to Hutchinson, Hutchinson provided Cornish with material non-public information regarding publicly traded issuers, which information Hutchinson obtained through her employment;[9]

d. with respect to an acquisition of all the outstanding shares of Quadra FNX Mining Ltd. (**Quadra**) by a client of Hutchinson's firm:

i. at some point prior to the public announcement of that transaction, Hutchinson told Cornish the names of the parties to the transaction;[10]

ii. Cornish paid Hutchinson $2,000-$3,000 for the information;[11] and

iii. prior to the announcement, Cornish traded Quadra shares while in a special relationship with Quadra and while in possession of material non-public information about Quadra, thereby contravening s. 76(1) of the Act;[12] and

e. with respect to an acquisition of all the outstanding shares of Tim Hortons Inc. (**Tim Hortons**) by a client of Hutchinson's firm:

i. near the beginning of the deal, Hutchinson told Cornish about it, including the identity of the acquiring entity, and she kept him updated about the status of the deal;[13]

ii. Cornish paid Hutchinson $7,000 for the information;[14]

iii. over five months leading up the announcement of the transaction, Cornish purchased shares of Tim Hortons, and ultimately made a profit of approximately $128,000;[15] and

iv. Cornish's trades occurred while he was in a special relationship with Tim Hortons and while he was in possession of material non-public information regarding Tim Hortons, and his trades therefore contravened s. 76(1) of the Act.[16]

3. Purpose of the prohibition against illegal insider trading

[15] The Act's prohibition against illegal insider trading aligns with the two fundamental purposes of the Act referred to in paragraph [11] above; namely, to provide protection to investors from unfair, improper or fraudulent practices, and to foster fair and efficient capital markets and confidence in capital markets.[17]

[16] The prohibition exists for three principal reasons:

a. fairness requires that all investors have equal access to information about an issuer that would likely affect the market value of the issuer's securities;

b. insider trading may undermine investor confidence in the capital markets; and

c. capital markets operate efficiently on the basis of timely and full disclosure of all material information.[18]

[17] As the Commission has previously held, illegal insider trading "is a cancer that erodes public confidence in the capital markets. It is one of the most serious diseases our capital markets face."[19]

4. The nature of Cornish's misconduct

[18] Cornish's misconduct was serious. It was deliberate and it showed complete disregard for the interests of other investors in the capital markets.

[9] Merits Decision at paras 83, 87, 93, 94
[10] Merits Decision at paras 160, 162, 176
[11] Merits Decision at para 167
[12] Merits Decision at paras 182, 431c
[13] Merits Decision at paras 374, 377, 380d, 380f
[14] Merits Decision at para 380h
[15] Merits Decision at para 386
[16] Merits Decision at paras 393, 431c
[17] The Act, s 1.1
[18] *Finkelstein v Ontario Securities Commission*, 2018 ONCA 61 at paras 23, 25
[19] *M.C.J.C. Holdings Inc (Re)*, (2002) 25 OSCB 1133 at 1135

[19] The seriousness of his misconduct was aggravated by:

a. the fact that his only apparent motive was profit;

b. his long experience in the marketplace;

c. his exploiting Hutchinson's position at the law firm for his own benefit;

d. his inducing Hutchinson to breach her obligation of confidentiality to her employer (Hutchinson was a willing participant in the scheme, but I do not consider that to be a mitigating factor for Cornish); and

e. the recurring nature of his illegal trades.

[20] As a result of Cornish's misconduct, he realized a trading profit of at least $128,000.

[21] Cornish chose not to face the allegations against him. He expressed no remorse. While there is no obligation on a respondent to express remorse, and a respondent's failure to express remorse is not an aggravating factor, I note the absence of remorse in this case. Cornish has neither recognized the seriousness of his misconduct nor shown any concern for the harm he has caused.

[22] There are no mitigating factors.

5. Specific sanctions

(a) Market bans

[23] Staff asks that the Commission:

a. prohibit Cornish, for a period of 15 years, from acquiring any securities or from trading in any securities or derivatives;

b. order that any exemptions contained in Ontario securities law not apply to Cornish for 15 years; and

c. require that Cornish resign any positions he holds as a director or officer of an issuer or registrant, and prohibit him for a period of 15 years from becoming or acting as a director or officer of an issuer or registrant, or from becoming or acting as a registrant or promoter.

[24] Participation in the capital markets is a privilege, not a right.[20] Staff's requested order would essentially deny that privilege to Cornish for 15 years.

[25] The Commission's role is to deny that privilege where it concludes, based on a respondent's past conduct, that the respondent's continued participation in the capital markets "may well be detrimental to the integrity of [the] capital markets."[21]

[26] Staff cited three authorities in support of its request that Cornish be banned for 15 years.

[27] In *Agueci (Re)*,[22] the Commission imposed:

a. permanent market prohibitions against Wing, an experienced and senior participant in the securities industry who engaged in six breaches of the prohibition against illegal insider trading; and

b. 15-year market prohibitions against Fiorillo, who was also a sophisticated and experienced participant in the capital markets.

[28] In *Anderson (Re)*,[23] a settlement involving a respondent who admitted to two instances of illegal insider trading, the Commission approved permanent market prohibitions.

[29] The Commission's decision in *Azeff (Re)*[24] involved five respondents:

[20] *Erikson v Ontario (Securities Commission)*, 2003 CanLII 2451, [2003] OJ No 593 (Div Ct) at paras 55-56
[21] *Mithras Management Ltd (Re),* (1990) 13 OSCB 1600 at 1610-11
[22] 2015 ONSEC 19, (2015) 38 OSCB 5995
[23] (2015) 38 OSCB 4539
[24] 2015 ONSEC 29, (2015) 38 OSCB 7382

a. Finkelstein, a transactional lawyer, who on three occasions tipped others regarding material non-public information;

b. Azeff, Bobrow and Miller, experienced investment advisors, who used the information to commit illegal insider trades, thereby realizing profits ranging between approximately $10,000 and approximately $50,000; and

c. Cheng, a junior investment advisor, who committed illegal insider trading and thereby realized a profit of $36,410.

[30] The Commission imposed a 10-year market prohibition against each respondent. The length of that ban must be viewed in the context of the significant administrative penalties that were also imposed against them. Those penalties ranged from $200,000 to $750,000 and are set out in detail in paragraph [37] below.

[31] Having reviewed those previous decisions, I find that a time-limited ban against Cornish's participation in the capital markets is necessary. I attach significant weight to the fact that Cornish, an experienced participant in the capital markets, instigated the scheme and sought Hutchinson's co-operation. In my view, the 15-year bans that Staff seeks against Cornish are proportionate to his misconduct, and are reasonable in light of the precedent decisions cited above. I find that it is in the public interest to impose the requested bans.

(b) Administrative penalty

[32] Staff asks that the Commission require Cornish to pay an administrative penalty of $300,000. Staff submits that such an amount would be appropriate and proportionate due to the seriousness of the breaches.

[33] The Commission has stated in previous decisions that the purpose of administrative penalties is to "deter the particular respondents from engaging in the same or similar conduct in the future and to send a clear deterrent message to other market participants that the conduct in question will not be tolerated in Ontario capital markets."[25] Thus, the Commission intends that administrative penalties will achieve both specific and general deterrence.

[34] The Commission imposed administrative penalties in each of the three cases cited by Staff.

[35] In *Agueci (Re)*,[26] the Commission imposed a $1.5 million administrative penalty against Wing, who realized a profit of $520,916. The Commission imposed an administrative penalty of $350,000 against Fiorillo, which amount was approximately twice the profit he realized.

[36] In *Anderson (Re)*,[27] the Commission approved an administrative penalty of $18,770, an amount equal to the respondent's profits.

[37] In *Azeff (Re)*,[28] the Commission imposed the following administrative penalties:

a. $450,000 against Finkelstein;

b. $750,000 against Azeff, who realized a profit of $49,996;

c. $300,000 against Bobrow, who realized a profit of $10,217;

d. $450,000 against Miller, who realized a profit of $24,485; and

e. $200,000 against Cheng, who realized a profit of $36,410.

[38] Staff's requested penalty of $300,000 against Cornish is approximately 2.35 times the profit that he realized. That ratio is easily within a reasonable range, given the decisions cited above, and given the factors I have mentioned. I consider such a penalty to be appropriate in the circumstances, and necessary for the purposes of specific and general deterrence. I find that it is in the public interest to impose the penalty as requested.

(c) Disgorgement

[39] Finally, with respect to sanctions, Staff asks that Cornish be required to disgorge $128,000, being the profit he earned on the Tim Hortons trades.

[25] *Limelight Entertainment Inc (Re),* 2008 ONSEC 28, (2008) 31 OSCB 12030 at para 67
[26] 2015 ONSEC 19, (2015) 38 OSCB 5995
[27] (2015) 38 OSCB 4539
[28] 2015 ONSEC 29, (2015) 38 OSCB 7382

[40] Paragraph 10 of s. 127(1) of the Act provides that if "a person or company has not complied with Ontario securities law", the Commission may, if it determines it to be in the public interest to do so, issue "an order requiring the person or company to disgorge to the Commission any amounts obtained as a result of the non-compliance."

[41] The purpose of a disgorgement order is not to provide restitution; rather, it is a remedy that seeks to prevent wrongdoers from benefiting from their breaches of Ontario securities law, and to deter those wrongdoers and others from engaging in similar misconduct.[29]

[42] While the Commission is authorized to order disgorgement of the full amount obtained by respondents, it need not do so. The Commission has identified a non-exhaustive list of factors that it will take into account in determining whether a disgorgement order is appropriate, and if so, in what amount:

a. whether an amount was obtained by a respondent as a result of the non-compliance with Ontario securities law;

b. the seriousness of the misconduct and whether that misconduct caused serious harm, whether directly to original investors or otherwise;

c. whether the amount obtained as a result of the non-compliance is reasonably ascertainable;

d. whether those who suffered losses are likely to be able to obtain redress; and

e. the deterrent effect of a disgorgement order on the respondents and on other market participants.[30]

[43] I will now apply each of those factors to the circumstances of this case.

[44] In the Merits Decision, the Commission found that Cornish realized the $128,000 profit as a result of his contravention of s. 76(1) of the Act.

[45] As noted above, Cornish's conduct was serious. It was deliberate, and he induced Hutchinson to participate. It undermined the integrity of the capital markets. It caused harm to other investors in Tim Hortons. While that harm cannot be quantified for particular investors, and while those investors cannot obtain redress, the harm is real, for the reasons set out in paragraph [16] above.

[46] Finally, the need to deter Cornish and others from engaging in similar conduct requires an order that demonstrates unequivocally that such behaviour is unacceptable. It would be inappropriate to permit Cornish to retain any of the profits he realized as a result of his illegal activity.

[47] It is in the public interest to require Cornish to disgorge $128,000.

(d) Conclusion as to sanctions

[48] Each of the sanctions referred to above is appropriate in the circumstances. Taken together, the sanctions are proportionate to Cornish's misconduct and are in the public interest.

(e) Reprimand

[49] Staff also seeks a reprimand, pursuant to paragraph 6 of s. 127(1) of the Act. In my view, such an order is generally unnecessary, and duplicative and not in the public interest, where, as here, there are explicit findings of breaches of Ontario securities law, and the reasons for decision include clear denunciation of that conduct. In a case such as this one, a reprimand is best seen as a possible alternative to other sanctions set out in s. 127(1). Treating a reprimand as an automatic add-on to significant sanctions can diminish the value of reprimands for cases where they are better suited.

[50] I therefore decline to make that order.

B. Costs

1. Introduction

[51] I turn now to consider Staff's request that Cornish pay costs.

[29] *Pro-Financial Asset Management Inc (Re)*, 2018 ONSEC 18, (2018) 41 OSCB 3512 (***PFAM***) at para 48
[30] *PFAM* at para 56

[52] Because Cornish did not comply with Ontario securities law, s. 127.1 of the Act empowers the Commission to order him to pay the costs of the investigation and/or hearings in this matter. Such an order is not a sanction; instead it allows the Commission to recover some of the costs expended in connection with the investigation and hearings.

[53] Costs are discretionary. They are designed to reduce the burden on market participants to pay for investigations and enforcement proceedings.[31]

2. Staff's request

[54] Staff submitted evidence supporting total costs of $475,610.46 relating to the investigation and hearings in this matter. That sum reflects disbursements of $3,666.71, plus the time of the senior litigation counsel and the senior investigator only, based on hourly rates previously adopted by the Commission in making costs orders. That amount therefore excludes time spent by law clerks, students, assistants or other members of Staff.

[55] Staff seeks costs of $47,500, being approximately 10% of the already significantly discounted amount. Staff submits that such a discount reflects the fact that many of the allegations against Cornish and others were dismissed.

[56] In my view, Staff's request is proportionate, fair and in the public interest. As Staff fairly points out, many allegations were dismissed. However, the Commission found that it was Cornish's conduct that gave rise to the scheme and to the proceeding in the first place. As discussed above, Cornish's conduct was serious, and a costs order is warranted.

[57] I will therefore make the requested costs order.

IV. CONCLUSION

[58] For the reasons set out above, I shall issue an order as follows:

a. pursuant to paragraphs 7 and 8.1 of s. 127(1) of the Act, Cornish shall resign any positions he holds as a director or officer of an issuer or a registrant;

b. for a period of 15 years:

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

ii. pursuant to paragraph 2.1 of s. 127(1) of the Act, Cornish is prohibited from acquiring securities;

iii. pursuant to paragraph 3 of s. 127(1) of the Act, the exemptions contained in Ontario securities law shall not apply to Cornish;

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

v. pursuant to paragraph 8.5 of s. 127(1) of the Act, Cornish is prohibited from becoming or acting as a registrant or as a promoter;

c. pursuant to paragraph 9 of s. 127(1) of the Act, Cornish shall pay to the Commission an administrative penalty of $300,000, which amount shall be designated for allocation or use by the Commission in accordance with s. 3.4(2)(b) of the Act;

d. pursuant to paragraph 10 of s. 127(1) of the Act, Cornish shall be required to disgorge to the Commission the sum of $128,000, which amount shall be designated for allocation or use by the Commission in accordance with s. 3.4(2)(b) of the Act; and

e. pursuant to s. 127.1 of the Act, Cornish shall pay costs of $47,500 to the Commission.

Dated at Toronto this 2nd day of January, 2020.

"Timothy Moseley"

[31] *PFAM* at para 111

3.1.2 BDO Canada LLP

Citation: *BDO Canada LLP (Re)*, 2020 ONSEC 2
Date: 2020-01-03
File No.: 2018-59

IN THE MATTER OF
BDO CANADA LLP

REASONS AND DECISION ON A MOTION

Hearing:	December 16, 2019	
Decision:	January 3, 2020	
Panel:	Timothy Moseley	Vice-Chair and Chair of the Panel
Appearances:	Doug McLeod Melissa Feriozzo	For BDO Canada LLP
	Robert L. Gain Anna Huculak	For the moving party Staff of the Commission

REASONS AND DECISION ON A MOTION

I. OVERVIEW

[1] In this proceeding, Staff of the Ontario Securities Commission (**Staff** of the **Commission**) alleges that BDO Canada LLP (**BDO**), in conducting audits relating to Crystal Wealth Management Systems Limited (**Crystal Wealth**), breached certain provisions of the *Securities Act*[1] (the **Act**).

[2] The merits hearing is set to begin on March 2, 2020. As part of pre-hearing disclosure, Staff and BDO have exchanged summaries of the anticipated evidence of witnesses that each party may call to testify at the merits hearing.

[3] Staff contends that the witness summaries delivered by BDO fail to meet the standard imposed by the *Ontario Securities Commission Rules of Procedure and Forms* (**Rules**).[2] Staff brings this motion, seeking an order requiring BDO to deliver further and better witness summaries.

[4] The motion was heard on December 16, 2019. By order dated December 18, 2019,[3] I dismissed Staff's motion, with reasons to follow. These are my reasons.

[5] As I explain below, I am unable to find at this time that BDO's witness summaries are inadequate. However, that does not preclude a finding, during the course of the merits hearing, that one or more of the witness summaries fails to comply with the Rules. Such a finding would, absent permission from a panel, prevent BDO from relying on witness testimony that was not properly disclosed in a timely way before the merits hearing.

II. BACKGROUND

A. Legal framework

[6] Subsection 5(1) of the *Ontario Securities Commission Practice Guideline*[4] (**Practice Guideline**) contemplates that in an enforcement proceeding, a panel will impose a timeline for various steps leading up to the merits hearing, including the exchange of witness summaries.

[7] Rule 27(3) of the Rules requires that a witness summary include "the substance of the witness's evidence" and "the identification of any document or thing to which the witness is expected to refer."

[8] Rule 27(8) of the Rules provides that a party that fails to comply with its disclosure obligations, including those set out in Rule 27(3), "shall not, without a Panel's permission, be permitted to rely on material or testimony that was not properly disclosed."

[1] RSO 1990, c S.5
[2] (2019) 42 OSCB 9714
[3] (2020) 43 OSCB 28
[4] (2019) 42 OSCB 9736

[9] These sections of the Practice Guideline and of the Rules are the Commission's implementation of an authority expressly contemplated by s. 5.4 of the *Statutory Powers Procedure Act*.[5] That section provides that if a tribunal's rules "deal with disclosure" (as the Rules do), "the tribunal may, at any stage of the proceeding before all hearings are complete, make orders for… the exchange of witness statements…".

B. Timeline of relevant events in this proceeding

[10] By order of the Commission dated June 13, 2019,[6] BDO was required to serve its witness summaries on Staff by July 25, 2019.

[11] On July 25, 2019, BDO served witness summaries on Staff. On July 29, 2019, Staff communicated its view to BDO's counsel that the witness summaries were deficient.

[12] At an attendance before the Commission on August 19, 2019, scheduled to address various pre-hearing matters, Staff raised its concerns about BDO's witness summaries. The Commission did not have the summaries before it and was not asked to adjudicate with respect to them. However, on consent of both parties, the Commission ordered BDO to provide further witness summaries by October 11, 2019.[7]

[13] On October 11, 2019, BDO delivered a single document entitled "Witness Summaries of BDO Canada LLP". That document contains the revised witness summaries that are the subject of this motion.

C. Contents of the witness summaries

[14] In introductory language, the witness summary document states that it "provides a brief overview of the anticipated evidence of witnesses that BDO… anticipates that it may call at the hearing of this matter." The document identifies nine individuals who may testify at the merits hearing.

[15] For each potential witness, the summary of anticipated evidence states:

a. the witness's title at the relevant time; and

b. that "[b]roadly speaking", the witness will speak to her/his involvement, and/or the involvement of specified organizations (including BDO), in the subject audits.

[16] Eight of BDO's nine witnesses were interviewed by Staff one or more times during Staff's investigation of this matter. For each of those eight individuals, the witness summary incorporates by reference the transcript(s) of Staff's interview(s) of that witness.

[17] In addition, the witness summary document states that all witnesses "are expected to refer to documents in the hearing brief of BDO, which is expected to include, among other documents, BDO's Audit Working Papers and e-mail correspondence relating to the audits in question."

[18] None of the witness summaries, on its face, discloses the substance of the witness's anticipated evidence. While the examination transcripts that are incorporated by reference may include information of substance, those transcripts were not filed on this motion. I therefore had no opportunity to consider them in making my decision.

III. ISSUES

[19] This motion presents one principal issue. Do BDO's witness summaries fail to comply with Rule 27(3), and if so, does that failure warrant an order at this stage of the proceeding requiring BDO to deliver further and better witness summaries?

[20] Staff cites two deficiencies in the witness summaries.

[21] First, all nine of the witness summaries use the words "including, but not limited to" when describing the anticipated evidence of that witness. Further, for the eight witnesses who were interviewed by Staff during the investigation, the witness summary states that the witness will testify in a manner that is "broadly consistent with" that witness's earlier testimony. With respect to the one witness who was not interviewed during Staff's investigation, the witness summary states that "broadly speaking", she will "speak to" the conduct of the relevant audits.

[22] Second, Staff submits that the witness summaries do not properly identify the documents to which the witness is expected to refer.

[5] RSO 1990, c S.22
[6] (2019) 42 OSCB 5449
[7] (2019) 42 OSCB 6914

IV. ANALYSIS

A. The purpose of witness summaries

[23] I begin my analysis with a review of the purposes served by pre-hearing disclosure generally, and the exchange of witness summaries in particular.

[24] Rule 1 of the Rules assists in determining those purposes, and in interpreting Rule 27(3) of the Rules. It provides that the objective of the Rules "is to ensure that Commission proceedings are conducted in a just, expeditious and cost-effective manner."

[25] In *Hutchinson (Re)*,[8] the Commission held that:

> *[t]he requirement for mutual pre-hearing disclosure of anticipated oral evidence serves a number of purposes, all of which are consistent with the goals set out in Rule 1. For example, mutual pre-hearing disclosure:*
>
> a. allows the parties to better understand the issues in the proceeding;
>
> b. facilitates the narrowing of issues;
>
> c. allows the parties to identify and resolve evidentiary issues that may arise at the hearing;
>
> d. facilitates settlement;
>
> e. permits more reliable estimates of the time required to conduct the hearing; and
>
> f. as a result of all of the above, minimizes the time required, resources required, and cost of the hearing, to the benefit of the Commission and of the parties.

B. Assessing the sufficiency of witness summaries generally

[26] Witness summaries are not typically provided to a panel, either before or during the merits hearing. A panel receives a witness summary only when there is a specific need to review it, *e.g.*, when a party complains about its adequacy.

[27] A party may complain about the adequacy of a witness summary, and ask that the Commission assess its sufficiency, at either or both of two stages of a proceeding. The assessment may be made, as is the case here, before the merits hearing commences. Alternatively, the assessment may be made during the merits hearing.

[28] The latter case, *i.e.*, a challenge to the adequacy of a witness summary during the merits hearing, typically arises when a witness is testifying and the challenging party submits that the substance of the witness's testimony was not properly disclosed. When the panel is asked to assess the witness summary's adequacy in those circumstances, the panel has two concrete elements to compare to each other – the witness summary and the witness's testimony.

[29] In contrast, when as here a party challenges a witness summary before the witness begins to testify, the panel has nothing to which to compare the witness summary. At this stage of the proceeding, there is no certainty that the individual will be called as a witness at all, let alone what the extent of that witness's testimony will be if the individual does testify. The party on whose list the potential witness appears is free to decide not to call the witness, or to have the witness testify to only a portion of what is set out in the witness summary.

[30] The summary must therefore be assessed on its face, an exercise that necessarily affords the party delivering the witness summary more latitude than would be the case with a challenge during the merits hearing.

[31] Having said that, a witness summary that fails to disclose any "substance of" the witness's anticipated evidence, to use the words of Rule 27(3)(b), therefore does not comply with the rule. There would be no need to await the witness's testimony.

C. BDO's original witness summaries

[32] As noted above, the Commission has never been asked to adjudicate regarding the original witness summaries delivered by BDO on July 25, 2019. However, those summaries were before me on this motion. I observe that for all nine of BDO's potential witnesses, the relevant summary merely specified the individual's title and identified, at a high level, the topic(s) about which the individual was expected to testify (*e.g.*, the relevant audits, and the individual's role in connection with the audits). There was no reference to the interviews of the eight witnesses who had been interviewed by Staff.

[8] 2019 ONSEC 9, (2019) 42 OSCB 1347 at para 22

[33] None of the original summaries disclosed any substance. It is therefore apparent on their face that they all failed to comply with Rule 27(3). Nothing flows from that fact on this motion. I make the observation only to illustrate how witness summaries might be found to be deficient at this stage of a proceeding.

D. Assessment of BDO's revised witness summaries

1. Contents of BDO's revised witness summaries

[34] The contents of BDO's revised witness summaries, which are the subject of this motion, are described in paragraphs [14] to [18] above. Briefly stated, none of the summaries discloses any substance of the witness's anticipated testimony, other than through the incorporation by reference of the interview transcripts for eight of the nine witnesses.

[35] As noted earlier, however, those transcripts were not before me. It is reasonable to assume that each transcript contains some substantive testimony. However, it is impossible to test that assumption without seeing the transcripts.

2. Staff's concern about language such as "including, but not limited to" and "broadly consistent with"

[36] The first of Staff's two objections about the witness summaries is that they include language such as "including, but not limited to" and "broadly consistent with". Staff expresses the concern that at the merits hearing, a BDO witness will testify beyond the scope of her/his investigation-stage testimony, and that if Staff were to object at that time, BDO would respond by seeking to rely on the words quoted in the previous sentence.

[37] Staff's concern is reasonable. While it would be premature for me at this time to make the determination contemplated by Rule 27(8), *i.e.*, whether BDO should be permitted to rely at the merits hearing on evidence that was not properly disclosed, it is fair to ask BDO what use it intends to make of those words. Do those words provide any meaningful disclosure to Staff? Do they accomplish any of the purposes set out in paragraph [25] above (*e.g.*, narrowing issues and facilitating settlement)?

[38] That question was answered during the hearing of this motion. In oral submissions, counsel for BDO conceded that there is no real value in the words, and that they are "largely nominal".[9] As a result, for the eight witnesses who were interviewed by Staff during the investigation, the substance of their witness statement is confined to whatever substance may be found in the transcripts of their examinations.

[39] For the one potential witness that Staff did not examine during its investigation, I would have found her witness summary to be devoid of substance, and therefore deficient on its face, had BDO's counsel not supplemented that summary somewhat in his oral submissions. He stated that she:

a. was the most junior person on the audit team;

b. is unlikely to be called as a witness; and

c. if called, would likely testify only as necessary to explain a document or e-mail, introduced by Staff during its case in chief, and of which she was the primary author.

[40] While I continue to have concerns about the sufficiency of this witness summary, those concerns do not rise to the level necessary for me to conclude at this stage of the proceeding that the witness summary fails to comply with the Rules.

[41] The limits of the "substance" in all nine witness summaries are therefore now clearly established. In my view, BDO's counsel's concession regarding the words complained of effectively resolves Staff's legitimate concern about the use of those words. If at the merits hearing BDO seeks to rely on those words to overcome a Staff objection to the scope of a BDO witness's testimony, Staff no doubt will refer back to the transcript of this motion hearing and/or to these reasons. It will of course be for the panel at the merits hearing to decide upon the merits of any such objection at the time.

3. Staff's concern about BDO's alleged failure to identify documents to which BDO witnesses will refer in their testimony

[42] The second of Staff's two objections is that the witness summaries fail to comply with the requirement in Rule 27(3)(c) that they "identify any document" to which the witnesses are expected to refer.

[43] BDO responds by pointing to the introductory language in the witness summary document, which states that any individual on the witness list who is called as a witness is "expected to refer to documents in the hearing brief of BDO, which is expected to include, among other documents, BDO's Audit Working Papers and e-mail correspondence relating to the audits in question."

[9] Motion Hearing Transcript, BDO Canada LLP (Re), December 16, 2019, at 35 lines 11-21

[44] That introductory language refers to BDO's "hearing brief". However, no such brief exists at this time. Each party will be required to prepare, and deliver to the other party, a hearing brief consisting of all the documents to which reference is expected to be made during the hearing. By order of the Commission dated August 19, 2019,[10] the deadline for the exchange of hearing briefs is January 31, 2020. The deadline for the delivery of proper witness summaries was October 11, 2019. It is illogical and of no assistance to refer, in the witness summary document, to a set of documents (*i.e.*, the hearing brief) that does not yet exist. The reference should be disregarded.

[45] As for the words "which is expected to include, among other documents", the analysis in paragraphs [36] to [38] above applies. As BDO's counsel correctly conceded, these words are of no value.

[46] Accordingly, the BDO witness summaries can effectively be read to contemplate that the witnesses may refer to "BDO's Audit Working Papers and e-mail correspondence relating to the audits in question."

[47] Staff submits that this description is overly broad. Staff contends that since the working papers comprise approximately 7,000 printed pages, and related correspondence consists of approximately 30,000 e-mails, the description fails to accomplish any of the purposes of pre-hearing disclosure. The witness summaries are therefore deficient in Staff's submission, and BDO should be required to deliver witness summaries that are more precise about documents to which its witnesses are expected to refer.

[48] Staff requests an order requiring "further and better" witness summaries. Staff's request does not explicitly contemplate that the order would be any more precise than that.

[49] I cannot accede to Staff's request. If I were to take it literally, the order would lack any specifics as to what subset of the audit working papers, or related e-mail correspondence, ought to be excluded. Better, in what way? Nothing would be achieved at this stage of the proceeding by an order that fails to answer that question.

[50] If, on the other hand, I were to add some specifics, on what basis could I fashion those specifics? In the absence of a suggestion from Staff, to which BDO would have had an opportunity to respond at the motion hearing, I would have to proceed with extreme caution.

[51] Even if I were comfortable with the idea of narrowing the list myself or directing that BDO do so in some specified way, I am ill-equipped to do that. Staff's central allegation in this proceeding is that BDO falsely represented that it conducted its audits in accordance with Canadian generally accepted auditing standards (**GAAS**).[11] That is a very broad allegation (an observation I do not make critically). I have no basis to conclude that BDO would not choose to rely on every document and e-mail in presenting its case.

[52] Staff does allege three "principal ways" in which BDO failed to comply with GAAS.[12] Those particulars may assist somewhat in defining the issues, but they do not clearly narrow the breadth of Staff's central allegation (again, I mean no criticism in making that observation). One of the three "principal ways" is that BDO failed "to undertake its work with sufficient professional skepticism". That allegation itself is broad. If I wished to narrow the relevant documents, how could I? I have no information about the specific documents contained within the audit working papers. I have not seen the transcripts of the examinations of the eight BDO witnesses. And I have not seen the expert reports that the parties have exchanged.

[53] In my view, there is no valid option available at this stage by which I could require BDO to narrow the documents to which its witnesses may refer.

[54] Even though I dismissed Staff's motion, I do observe here, as I did during the motion hearing, that there may be costs consequences for BDO if:

a. the merits hearing panel finds that BDO failed to comply with Ontario securities law;

b. Staff requests that the Commission make a costs order against BDO pursuant to s. 127.1 of the Act; and

c. Staff persuades the sanctions and costs hearing panel that BDO's choice not to narrow the list of documents ought to result in a higher costs award (*e.g.*, because BDO's choice unnecessarily lengthened the hearing).

[10] (2019) 42 OSCB 6914
[11] Amended Statement of Allegations dated September 16, 2019 at paras 3-4
[12] Amended Statement of Allegations dated September 16, 2019 at paras 4-7

V. CONCLUSION

[55] For the reasons set out above, I cannot find at this time that any of BDO's witness summaries is deficient.

[56] BDO's witness summary document describes itself as "a brief overview" of the evidence that BDO's witnesses will give. Time will tell whether the overview is too brief, in that it fails to provide the substance of testimony that BDO's witnesses attempt to give.

[57] It must be clearly understood that nothing about my dismissal of Staff's motion, or these reasons, diminishes in any way the disclosure obligations that BDO had and continues to have under the Rules.

Dated at Toronto this 3rd day of January, 2020.

"Timothy Moseley"

3.2 Director's Decision

3.2.1 Ontario Wealth Management Corporation

AGREEMENT TO RESOLVE AN OPPORTUNITY TO BE HEARD (OTBH)

BETWEEN

STAFF OF THE ONTARIO SECURITIES COMMISSION (STAFF)

AND

ONTARIO WEALTH MANAGEMENT CORPORATION (OWMC)

1. OWMC seeks to voluntarily surrender its Exempt Market Dealer (EMD) registration and in accordance with the usual and customary process under the *Act* has consented to the suspension of its registration pending surrender. The firm has voluntarily ceased operating as an EMD and has agreed to commence the process for surrendering its EMD registration in light of Staff's ongoing concerns with the company's EMD compliance obligations.

2. Staff's compliance concerns related to the appropriate suitability assessments for some trades, the adequacy of know-your-client (KYC) data collected, the appropriate handling of client-directed trades, dealer obligations on the sale of US syndicated mortgages, reliance on prospectus exemptions and the sufficiency of the system of controls and supervision to provide reasonable assurance that the firm and each individual acting on its behalf complies with securities legislation.

3. While there is disagreement between Staff and the company as to the factual and legal underpinnings of some of these issues, the firm recognizes that it is the interests of its EMD clients that it no longer operate as an EMD.

4. Staff agrees that the commencement of the surrender process is an appropriate way to address Staff's compliance concerns.

5. Staff did not raise any concerns about the underlying investment product offered by the Owemanco Mortgage Trust (the Trust). The Trust continues to operate and units in the Trust are being sold to investors using a third-party independent EMD.

6. Staff and OWMC acknowledge that if the Director does not accept this Agreement:

   (a) this agreement and all discussions and negotiations between Staff and OWMC in relation to this matter shall be without prejudice to the parties; and

   (b) OWMC will be entitled to an OTBH in accordance with section 31 of the Act in respect of any recommendation that may be made by Staff regarding its registration status.

7. The parties agree that this Agreement, and any Director's decision approving of it, will be published on the OSC's website and in the OSC Bulletin

"Elizabeth King"
Deputy Director
Compliance and Registrant Regulation
November 28, 2019

Ontario Wealth Management Corporation
"Graham Tobe"
November 28, 2019

I approve the attached *Agreement to Resolve an Opportunity to be Heard*.

Dated this 20th day of December, 2019

"Pat Chaukos"
Deputy Director
Compliance and Registrant Regulation

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Avalon Works Corp.	06 January 2020	
Torque Esports Corp.	06 January 2020	
Wolfpack Brands Corporation	05 December 2019	06 January 2020

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:
Dynamic Active Global Infrastructure ETF
Dynamic Active International Dividend ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Dec 31, 2019
NP 11-202 Preliminary Receipt dated Dec 31, 2019
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3004738

Issuer Name:
CI India All Cap Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Jan 6, 2020
NP 11-202 Final Receipt dated Jan 6, 2020
Offering Price and Description:
Class I units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2975209

Issuer Name:
Invesco Active Multi-Sector Credit Fund
Invesco Canadian Core Plus Bond Fund
Invesco Canadian Core Plus Bond Class
Invesco Canadian Premier Balanced Fund
Invesco Canadian Real Return Bond Index Fund
Invesco Canadian Short-Term Bond Fund
Invesco Core Canadian Balanced Class
Invesco Diversified Yield Class
Invesco Global Balanced Fund
Invesco Global Balanced Class
Invesco Global Bond Fund
Invesco Global Diversified Income Fund
Invesco Global High Yield Bond Fund
Invesco Global Monthly Income Fund
Invesco Income Growth Fund
Invesco Select Balanced Fund
Principal Regulator - British Columbia
Type and Date:
Amendment #1 to Final Annual Information Form dated December 31, 2019
NP 11-202 Final Receipt dated Jan 6, 2020
Offering Price and Description:
Series A units, Series ACAP shares, Series D units, Series F units, Series F4 shares, Series F6 shares, Series F8 shares, Series FH shares, Series H shares, Series I units, Series M units, Series O units, Series P units, Series PF units, Series PF4 units, Series PF6 shares, Series PF8 shares, Series PFH shares, Series PH shares, Series PT4 shares, Series PT6 shares, Series PT8 shares, Series PTF units, Series SC units, Series T4 units, Series T6 units, Series T8 units, Series T4CAP shares and Series T8CAP shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2921461

NON-INVESTMENT FUNDS

Issuer Name:
Inter Pipeline Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Shelf Prospectus dated January 6, 2020
NP 11-202 Preliminary Receipt dated January 6, 2020
Offering Price and Description:
$3,000,000,000.00
Common Shares
Preferred Shares
Debt Securities
Subscription Receipts
Warrants
Share Purchase Contracts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3005533

Issuer Name:
InterRent Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 30, 2019
NP 11-202 Preliminary Receipt dated December 31, 2019
Offering Price and Description:
$800,000,000.00
UNITS
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3004386

Issuer Name:
Freeform Capital Partners Inc.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated December 27, 2019
NP 11-202 Receipt dated January 2, 2020
Offering Price and Description:
$250,000.00
2,500,000 common shares
Price: $0.10 per common share
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
Promoter(s):
Kevin Smith
Project #2941904

Issuer Name:
NervGen Pharma Corp.
Principal Regulator - British Columbia
Type and Date:
Final Shelf Prospectus dated January 2, 2020
NP 11-202 Receipt dated January 3, 2020
Offering Price and Description:
CDN$100,000,000.00
Common Shares
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2997052

Issuer Name:
Radient Technologies Inc.
Principal Regulator - Alberta
Type and Date:
Final Shelf Prospectus dated January 2, 2020
NP 11-202 Receipt dated January 2, 2020
Offering Price and Description:
$75,000,000.00
Common Shares
Debt Securities
Convertible Securities
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2999730

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: Generation Advisors Inc. To: Generation IACP Inc.	Investment Dealer	December 16, 2019
Name Change	From: Generation Portfolio Management Corp. To: Generation PMCA Corp.	Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	December 16, 2019
Consent to Suspension (Pending Surrender)	Ontario Wealth Management Corporation	Exempt Market Dealer	December 19, 2019
Consent to Suspension (Pending Surrender)	Aptitude Investment Management LP	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer	December 27, 2019
Consent to Suspension (Pending Surrender)	Sunel Securities Inc.	Exempt Market Dealer	December 27, 2019
Consent to Suspension (Pending Surrender)	RSM Canada Corporate Finance Inc.	Exempt Market Dealer	December 27, 2019
Consent to Suspension (Pending Surrender)	PineBridge Investments Canada Inc.	Portfolio Manager and Exempt Market Dealer	December 27, 2019
Voluntary Surrender	First Block Capital Inc.	Exempt Market Dealer and Investment Fund Manager	December 27, 2019
New Registration	Kolona Capital Management Inc.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	January 2, 2020
New Registration	Tidefall Capital Management Inc.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	January 2, 2020
Consent to Suspension (Pending Surrender)	Kawartha Asset Management Inc.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	December 30, 2019
Consent to Suspension (Pending Surrender)	Responsive Capital Management Inc.	Portfolio Manager	December 31, 2019
Voluntary Surrender	Greenleaf Group Inc.	Exempt Market Dealer	December 31, 2019
Consent to Suspension (Pending Surrender)	Growth Works Capital Ltd.	Portfolio Manager, Exempt Market Dealer, Investment Fund Manager and Mutual Fund Dealer	December 31, 2019
Consent to Suspension (Pending Surrender)	Fort, L.P.	Exempt Market Dealer	December 30, 2019
Consent to Suspension (Pending Surrender)	Global Wealth Builders Ltd.	Portfolio Manager and Investment Fund Manager	December 31, 2019

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	Mahogany Asset Management Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 27, 2019
Consent to Suspension (Pending Surrender)	Northwater Capital Management Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 30, 2019
Change in Registration Category	MIM I LLC	From: Portfolio Manager and Exempt Market Dealer To: Portfolio Manager	December 31, 2019
New Registration	Clariti Capital Markets Inc.	Exempt Market Dealer	January 2, 2020
New Registration	Traynor Ridge Capital Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	January 3, 2020
New Registration	Co-operators Financial Investment Services Inc.	Mutual Fund Dealer	January 3, 2020

Index