

**1.1.2 OSC Staff Notice 81-715 — Cross-Listings by Foreign Exchange-Traded Funds**

**OSC STAFF NOTICE 81-715**

**CROSS-LISTINGS BY FOREIGN EXCHANGE-TRADED FUNDS**

**Purpose**

This notice sets out the views of staff of the Ontario Securities Commission (OSC Staff or we) regarding the application of prospectus requirements and investment fund product regulation in connection with cross-listings on an exchange in Ontario by foreign exchange-traded mutual funds.

**Background**

Exchange-traded mutual funds (ETFs) are open-end mutual funds in continuous distribution whose securities trade over an exchange. We have received several inquiries relating to foreign ETFs that may be interested in cross-listing their securities on an exchange in Ontario.

**Regulatory Issues**

The increasingly global market for investment products requires balancing the benefits of investor access to potentially high quality foreign products with investor protection and maintaining consistent product regulation between domestic and foreign products. As the ETF industry continues to evolve, its products are becoming more diverse and complex. This requires ensuring that investors fully understand the risks of the products they are purchasing.

Regulatory oversight of investment fund products is achieved primarily through disclosure requirements and product regulation, which arises when an investment fund is either actively selling its securities or conducting a distribution in Ontario.

OSC Staff's view is that a cross-listing of foreign ETF securities would generally be a distribution in Ontario. ETFs differ from other exchange-listed issuers primarily because an ETF's exchange listing functions as the primary distribution channel through which an ETF issues its securities to investors and increases its net assets. As a result, we do not consider the ETF's exchange listing as merely providing a source of secondary market liquidity.

OSC Staff's view is that foreign ETF providers must file a prospectus to qualify their securities and comply with investment fund product regulation in Ontario before applying to cross-list on an exchange in Ontario. Similarly, we take the view that foreign providers of other products that are comparable to ETFs and use a similar distribution structure as ETFs, such as some exchange-traded notes (ETNs), must also file a prospectus before applying to cross-list their securities on an exchange in Ontario.

OSC Staff intend to continue to monitor this issue, as well as developments in the ETF industry generally, with a view to assessing whether a modified approach to cross-listings

of foreign investment products may be warranted. We are prepared to discuss whether there may be circumstances in which we are prepared to consider an exception to the approach reflected in this notice.

**Further Information**

Filers and their counsel are encouraged to contact OSC Staff at an early stage in the planning of any foreign ETF or ETN distribution that may give rise to any questions concerning the issues discussed in this Notice.

**Questions**

If you have any questions, please refer them to:

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