

Appendix A

Existing Representatives

Ty Saunders (Halifax)  
Marisa Cobuzzi (Montreal)  
Carol Fensom (Ottawa)  
Paolo Larenza (GTA)  
David Irwin (London)  
Brian Evans (Regina)  
David Zizek (Calgary)  
Dennis Pon (Edmonton)  
Dhar Atwal (Vancouver)  
Kerry Foord (Victoria)

2.1.5 The Asian Infrastructure Investment Bank

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from prospectus requirement – relief grants a multilateral development bank an exemption from the prospectus requirement with a two-year sunset clause – relief similar to exemption for “permitted supranational agency” in section 2.34 of National Instrument 45-106 Prospectus and Registration Exemptions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am. ss. 53 and 74(1).

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  
THE ASIAN INFRASTRUCTURE INVESTMENT BANK  
(the Filer)

DECISION

Background

The principal regulator has received an application from the Filer for a decision under the securities legislation of the Jurisdiction exempting the Filer from the requirements contained in section 53 of the Act to file and obtain a receipt for a preliminary prospectus and a final prospectus (the **Prospectus Requirement**) as it relates to a debt security issued or guaranteed by the Filer in the currency of Canada or the United States of America (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 other provinces and territories other than the Jurisdiction.

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 multilateral development bank that commenced operations on January 16, 2016 to help its members meet a substantial financing gap between the demand for infrastructure in Asia and available financial resources. The Filer aims to work with public and private sector partners to channel its own public resources, together with private and institutional funds, into sustainable infrastructure investment.
2. The Filer was established in 2015 under, and operates pursuant to, its Articles of Agreement (the **Agreement**), which came into effect on December 25, 2015.
3. The Filer is not a private institution and does not have private shareholders.
4. Under the Agreement, the purpose of the Filer is to:
  - i. foster sustainable economic development, create wealth and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors; and
  - ii. promote regional cooperation and partnership in addressing development challenges by working in close collaboration with other multilateral and bilateral development institutions.
5. The Filer is an international organization with its principal office in Beijing, People's Republic of China. The Filer does not have any offices in Canada.
6. The Filer is not and has no intention of becoming a reporting issuer under the securities legislation of any jurisdiction of Canada. The Filer is not in default of securities legislation in any jurisdiction of Canada.
7. Pursuant to the Agreement, membership in the Filer is open to members of the International Bank for Reconstruction and Development or the Asian Development Bank. In the case of an applicant that is not a sovereign or not responsible for the conduct of its international relations (e.g., a political subdivision such as a semi-autonomous territory), application for membership in the Filer must be presented or agreed by the member of the Filer responsible for its international relations. The Filer currently has 89 regional and non-regional members and 16 prospective members.
8. Pursuant to the Agreement, the Filer is administered and managed by a Board of Governors, a Board of Directors, a President, one or more Vice-Presidents and other officers and staff. All of the powers of the Filer are vested in the Board of Governors, consisting of one Governor and one Alternate Governor appointed by each member. While the Agreement does not specify criteria for the appointment of a Governor by the member, the current composition of Governors includes officials of ministerial (or equivalent) rank. Notably, they are all public officials. All matters before the Board of Governors are decided by a majority vote, other than matters that are designated as a super majority or special majority vote per the Agreement (such as certain matters pertaining to membership, the Filer's operations and capital, and amendments to the Agreement). Canada is currently represented at the Board of Governors of the Filer by Chrystia Freeland, Deputy Prime Minister and Minister of Finance. The Alternate Governor for Canada is John Hannaford, Deputy Minister for International Trade.
9. The Board of Directors consists of twelve members who are not members of the Board of Governors, with nine being elected by the Governors representing regional members and three by the Governors representing non-regional members. The Board of Directors is responsible for the conduct of the Filer's operations through the exercise of powers delegated to it by the Board of Governors, in addition to those expressly assigned to it by the Agreement. The Directors, who serve the Filer on a non-resident basis, hold office for two-year terms and may be re-elected. They also must be nationals of member jurisdictions and persons of recognized capacity and experience in economic and financial matters. Matters before the Board of Directors are decided by a majority vote, except as otherwise provided in the Agreement.
10. The President of the Filer shall be elected by a super majority vote of the Board of Governors through an open, transparent and merit-based process. The President must be a national of a regional member and may not be a Governor, a Director or an alternate for either. The term of office of the President is five years with the possibility of one additional term. Mr. Jin Liqun, a Chinese national and the Filer's current President, has been elected to a second term that began on January 16, 2021.
11. The President, officers and staff of the Filer, in the discharge of their offices, are responsible solely to the Filer and may not recognize any other authority. The members of the Filer are obligated to respect the international character of this obligation. Moreover, pursuant to the Agreement, the Filer, its President, officers and staff may not interfere in the political affairs of any members of the Filer nor be influenced in their decisions by the political character of the member concerned.
12. The Agreement endows the Filer with full juridical personality and, in particular, the full legal capacity (a) to contract, (b) to acquire, and dispose of,

- immovable and movable property, (c) to institute and respond to legal proceedings and (d) to take such other action as may be necessary or useful for its purpose and activities. The Agreement further provides that the Filer enjoys, in the territory of each of its members, the immunities, exemptions and privileges afforded thereto by the Agreement. Canada is a signatory to the Agreement and became a member of the Filer on March 19, 2018. Canada granted the Filer privileges and immunities on March 7, 2018 pursuant to the *Privileges and Immunities of the Asian Infrastructure Investment Bank Order* (P.C. 2018-197 2018-03-06), made by the Governor General in Council pursuant to the *Asian Infrastructure Investment Bank Agreement Act* (S.C. 2017, c. 33, s. 176).
13. The authorized capital of the Filer consists of US\$100 billion divided into paid-in shares having an aggregate par value of US\$20 billion and callable shares having an aggregate par value of US\$80 billion. As of September 30, 2021, the members of the Filer had subscribed an aggregate of US\$96.8 billion of the Filer's share capital, of which US\$19.4 billion paid-in and US\$77.4 billion was callable.
  14. For the year ended December 31, 2021, the Filer issued through private placements and public offerings a combined total of roughly US\$2.3 billion equivalent fixed and floating rate notes under the Filer's Global Medium-Term Note Programme. During the same period, the Filer has also issued a total of US\$751 million equivalent of fixed rate notes under its A\$ and NZ\$ Debt Issuance Programme. In addition, the Filer filed a shelf registration with the U.S. Securities and Exchange Commission which was declared effective as of May 18, 2020 to qualify up to US\$12.0 billion of securities.
  15. The Filer's long-term debt has been assigned a triple-A rating or its equivalent by each of Moody's Investors Services (April 2021), Fitch Ratings (June 2021) and Standard & Poor's (December 2021).
  16. The Filer has been recognized by the Basel Committee on Banking Supervision as a multilateral development bank and, as such, the Basel Committee has agreed that national supervisors may allow banks to apply a 0% risk weighting to claims on the Filer for purposes of its framework for international capital adequacy standards.
  17. The Office of the Superintendent of Financial Institutions has confirmed to the Filer that, effective as of July 30, 2020, it is eligible for a 0% risk weight under the Standardized Approach to credit risk pursuant to the guidelines under the *Capital Adequacy Requirements Chapter 3 – Credit Risk – Standardized Approach*, and for inclusion in the list of exempted multilateral development banks under *OSFI Guideline E-22 – Margin Requirements for Non-Centrally Cleared Derivatives*.
  18. Subsection 2.34(2)(f) of National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* provides an exemption from the Prospectus Requirement for a debt security issued or guaranteed by a "permitted supranational agency" if the debt security is payable in the currency of Canada or the United States of America.
  19. The definition of a "permitted supranational agency" under subsection 2.34(1) of NI 45-106 includes the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the International Bank for Reconstruction and Development and the International Finance Corporation.
  20. As the definition of "permitted supranational agency" of subsection 2.34(1) of NI 45-106 does not include the Filer, the Filer is not able to rely on the prospectus exemption contained in subsection 2.34(2)(f) of NI 45-106 in respect of a debt security issued or guaranteed by the Filer in the currency of Canada or the United States.
  21. The Filer has submitted that because it is similar to the permitted supranational agencies listed in subsection 2.34(1) of NI 45-106, it should be exempt from the Prospectus Requirement as it relates to a debt security issued or guaranteed by the Filer in the currency of Canada or the United States of America.
  22. The Filer has considered whether, under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* and the securities legislation, it could be considered to be engaged in or holding itself out as engaging in the business of trading in securities and therefore required to register as a dealer, rely on another exemption from the dealer registration requirement or seek exemptive relief from the dealer registration requirement. In light of the particular facts and circumstances of the Filer, including the fact that the distribution of debt securities of the Filer is incidental to the Filer's principal activities, it does not receive any fees or other income from engaging in trades or acts in furtherance of distributions of its own debt securities, and its activities do not have the attributes typical of a person or company carrying on the business of a dealer, and having considered the guidance in section 1.3 of Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, the Filer has concluded that it should not be considered to be engaged in registrable activities and therefore does not require relief from the registration requirement of the securities legislation.

**Decision**

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

The decision of the principal regulator under the securities legislation is that the Exemption Sought from the Prospectus Requirement is granted provided that:

- (a) the debt securities of the Filer are payable in the currency of Canada or the United States of America; and
- (b) the exemption granted shall terminate on the date that is two years after the date of this decision.

**DATED** at Toronto this 4th of March 2022.

“Tim Moseley”  
Commissioner  
Ontario Securities Commission

“Mary Anne De Monte-Whelan”  
Vice-Chair  
Ontario Securities Commission

**2.1.6 Tudor, Pickering, Holt & Co. Securities – Canada, ULC**

**Headnote**

Pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the prohibition on the use of corporate officer titles by certain registered individuals in respect of institutional clients – Relief does not extend to interactions by registered individuals with retail clients.

**Applicable Legislative Provisions**

Multilateral Instrument 11-102 Passport System, s. 4.7(1).  
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.18(2)(b) and 15.1(2).

**Citation:** *Re Tudor, Pickering, Holt & Co. Securities - Canada, ULC*, 2021 ABASC 190

**December 31, 2021**

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

**AND**

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

**AND**

**IN THE MATTER OF  
TUDOR, PICKERING, HOLT & CO. SECURITIES –  
CANADA, ULC  
(the Filer)**

**DECISION**

**Background**

The securities regulatory authority or regulator in each of the Jurisdictions (each, a **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), the Filer and its Registered Individuals (as defined below) are exempt from the prohibition in paragraph 13.18(2)(b) of NI 31-103 that a registered individual may not use a corporate officer title when interacting with clients, unless the individual has been appointed to that corporate office by their sponsoring firm pursuant to applicable corporate law, in respect of Clients (as defined below) (the **Exemption Sought**).