The Ontario Securities Commission

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The Ontario Securities Commission exercises its regulatory oversight function through the administration and enforcement of Ontario's *Securities Act* (R.S.O. 1990, c. S.5) and *Commodity Futures Act* (R.S.O. 1990, c. C.20), and administration of certain provisions of the *Business Corporations Act* (R.S.O. 1990, c. B.16).

The Ontario Securities Commission
Cadillac Fairview Tower
22nd Floor, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

Contact Centre:
Toll Free: 1-877-785-1555
Local: 416-593-8314
TTY: 1-866-827-1295
Fax: 416-593-8122
Email: inquiries@osc.gov.on.ca

Capital Markets Tribunal:
Local: 416-595-8916
Email: registrar@osc.gov.on.ca

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FOR IMMEDIATE RELEASE
May 29, 2024

CORMARK SECURITIES INC.,
WILLIAM JEFFREY KENNEDY,
MARC JUDAH BISTRICER, AND
SALINE INVESTMENTS LTD.,
File No. 2022-24

TORONTO – The following merits hearing dates have changed in the above-named matter:

1. the previously scheduled days of May 30 and 31, 2024 and June 3, 4, 10 and 11, 2024 will not be used for the merits hearing; and

2. the merits hearing will continue on June 13 and 14, 2024 at 10:00 a.m. on each day. The hearing will be held at the offices of the Tribunal at 20 Queen Street West, 17th floor, Toronto.

Members of the public may observe the hearing by videoconference, by selecting the "Register to attend" link on the Tribunal's hearing schedule, at capitalmarketstribunal.ca/en/hearing-schedule.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.2 Nova Tech Ltd and Cynthia Petion

FOR IMMEDIATE RELEASE
June 4, 2024

NOVA TECH LTD AND
CYNTHIA PETION,
File No. 2023-20

TORONTO – The scheduled merits hearing date of June 7, 2024 in the above-named matter will proceed by videoconference.

Members of the public may observe the hearing by videoconference, by selecting the "Register to attend" link on the Tribunal's hearing schedule, at capitalmarketstribunal.ca/en/hearing-schedule.

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For Media Inquiries:

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inquiries@osc.gov.on.ca

A.2.3 Mughal Asset Management Corporation et al.

FOR IMMEDIATE RELEASE
June 4, 2024

MUGHAL ASSET MANAGEMENT CORPORATION,
LENDLE CORPORATION AND
USMAN ASIF,
File No. 2022-15

TORONTO – The Tribunal issued its Reasons and Decision and an Order in the above-named matter.

A copy of the Reasons and Decision and Order both dated June 3, 2024 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.3
Orders

A.3.1 Mughal Asset Management Corporation et al. – ss. 127(1), 127.1

IN THE MATTER OF
MUGHAL ASSET MANAGEMENT CORPORATION,
LENDLE CORPORATION AND
USMAN ASIF

File No. 2022-15

Adjudicators: Andrea Burke (chair of the panel)
Mary Condon
Geoffrey D. Creighton

June 3, 2024

ORDER
(Subsection 127(1) and section 127.1 of the *Securities Act,* RSO 1990, c S.5)

WHEREAS on March 5, 2024, the Capital Markets Tribunal held a hearing by videoconference to consider the sanctions and costs that the Tribunal should impose on Mughal Asset Management Corporation (**Mughal**), Lendle Corporation (**Lendle**), and Usman Asif (**Asif**) (collectively, the **Respondents**) as a result of the findings in the Reasons and Decision on the merits issued on November 1, 2023;

ON READING the materials filed by the parties and on hearing the submissions of the representatives for the Ontario Securities Commission (**Commission**) and of Asif, appearing on his own behalf and on behalf of Mughal and Lendle;

IT IS ORDERED THAT:

1. with respect to the Respondents:

   a. pursuant to paragraph 2 of s. 127(1) of the *Securities Act* (***Act***), trading in any securities by the Respondents shall cease permanently;

   b. pursuant to paragraph 2.1 of s. 127(1) of the *Act*, the acquisition of any securities by the Respondents is prohibited permanently;

   c. pursuant to paragraph 3 of s. 127(1) of the *Act*, any exemptions contained in Ontario securities law do not apply permanently to the Respondents;

   d. pursuant to paragraph 8.5 of s. 127(1) of the *Act*, the Respondents are permanently prohibited from becoming or acting as a registrant, an investment fund manager, or a promoter;

   e. pursuant to paragraph 9 of s. 127(1) of the *Act*, the Respondents shall jointly and severally pay to the Commission an administrative penalty of $800,000;

   f. in connection with the Mughal fraud, pursuant to paragraph 10 of s. 127(1) of the *Act*, the Respondents shall jointly and severally disgorge to the Commission $661,077 and US$245,000;

   g. pursuant to s. 127.1 of the *Act*, the Respondents shall jointly and severally pay $295,413.65 to the Commission for the costs of the investigation and hearing; and

2. with respect to Lendle and Asif:

   a. in connection with the Lendle fraud, pursuant to paragraph 10 of s. 127(1) of the *Act*, Lendle and Asif shall jointly and severally disgorge to the Commission $70,000; and

3. with respect to Asif:

   a. pursuant to paragraphs 7, 8.1 and 8.3 of s. 127(1) of the *Act*, Asif shall immediately resign any positions that he holds as a director or officer of any issuer, registrant, or investment fund manager;

   b. pursuant to paragraphs 8, 8.2 and 8.4 of s. 127(1) of the *Act*, Asif is prohibited permanently from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager; and

   c. pursuant to paragraph 9 of s. 127(1) of the *Act*, Asif shall pay to the Commission an administrative penalty of $350,000.

“Andrea Burke”

“Mary Condon”

“Geoffrey D. Creighton”

A.4
Reasons and Decisions

A.4.1 Mughal Asset Management Corporation et al. – ss. 127(1), 127.1

Citation: *Mughal Asset Management Corporation (Re)*, 2024 ONCMT 14
Date: 2024-06-03
File No. 2022-15

IN THE MATTER OF
MUGHAL ASSET MANAGEMENT CORPORATION,
LENDLE CORPORATION AND
USMAN ASIF

REASONS AND DECISION
(Subsection 127(1) and section 127.1 of the *Securities Act*, RSO 1990, c S.5)

Adjudicators:	Andrea Burke (chair of the panel) Mary Condon Geoffrey D. Creighton	
Hearing:	By videoconference, March 5, 2024	
Appearances:	Sarah McLeod	For the Ontario Securities Commission
	Usman Asif	For himself and Mughal Asset Management Corporation and Lendle Corporation

REASONS AND DECISION

1. OVERVIEW

[1] In a decision on the merits dated November 1, 2023[1] (the **Merits Decision**), the Capital Markets Tribunal found that the respondents, Mughal Asset Management Corporation, Lendle Corporation and Usman Asif breached the Ontario *Securities Act*[2] (the ***Act***) by perpetrating a fraud on investors. The Merits Decision also found that Asif made false and misleading statements to the Ontario Securities Commission in the course of an investigation, disclosed a confidential investigation order and summons, and engaged in conduct contrary to the public interest.

[2] As a result of the findings in the Merits Decision, the Commission asks that we order against the respondents:

a. permanent restrictions on their participation in capital markets;

b. the payment of financial sanctions, including the disgorgement of funds they improperly obtained and administrative penalties; and

c. the payment of a portion of the Commission's costs of the investigation and proceeding.

[3] For the reasons set out below, we conclude it is in the public interest to order that:

a. the respondents be permanently banned from participating in the Ontario capital markets;

b. the respondents jointly and severally disgorge $661,077 and US$245,000 in connection with the Mughal fraud;

c. Asif and Lendle jointly and severally disgorge an additional $70,000 in connection with the Lendle fraud;

d. the respondents jointly and severally pay an administrative penalty of $800,000;

e. Asif pay an additional administrative penalty of $350,000; and

[1] *Mughal Asset Management Corporation (Re)*, 2023 ONCMT 39 (***Merits Decision***)
[2] RSO 1990, c S.5 (***Act***)

f. the respondents jointly and severally pay $295,413.65 of the costs of the investigation and hearing.

2. BACKGROUND

[4] The Merits Decision made the following findings of fact that are relevant to our decision on sanctions and costs:

a. Asif was the sole director, officer, shareholder and directing mind of Mughal;

b. from October 2016 until December 2021, Mughal and Asif raised at least $2.757 million and US $264,000 from at least 82 investors by making representations that Mughal was an investment firm, managed various investment funds, and that investors' funds would be pooled and invested and investors would be paid all profits on their investment less a management fee and could expect to earn 2 to 5 percent in monthly returns;

c. Mughal and Asif primarily targeted Ontario investors from the Pakistani community and advertised Mughal as an investment firm through a website, radio, emails, and social media;

d. Mughal investors' funds were never used to purchase securities and were instead primarily used to pay other Mughal investors as simulated returns or to satisfy withdrawal requests. Mughal transferred approximately $1.811 million and US $19,000 back to Mughal investors, and Asif transferred $83,350 from his personal accounts to Mughal investors;

e. Mughal investors' funds were also used for Asif's benefit or personal spending in the amount of $650,698;

f. Mughal investors never received any real return and some investors lost all of their invested funds;

g. in or around November 2019, Asif incorporated Lendle, a purported credit and loan corporation of which he was the chief executive officer and directing mind and Asif and his brother were the sole directors;

h. Mughal also transferred $290,385 of Mughal investors' funds to Lendle;

i. Lendle paid Mughal investors $201,573;

j. in or around mid-2021, Asif solicited two Mughal investors to provide $70,000 directly to Lendle, which he represented would be used for the Lendle business. At least $57,540 of these funds were instead used for Asif's personal expenses;

k. during the Commission's investigation, Asif made false and misleading statements to the Commission and failed to disclose material information;

l. prior to the commencement of this proceeding, Asif disclosed to certain Mughal investors that he was being investigated by the Commission and provided one of them a copy of his s. 13 summons; and

m. Asif disregarded a warning letter sent by the Commission in 2019, he told at least one investor that he had settled the proceeding when no settlement had occurred, and he interfered with the Commission's investigation by coaching a witness and by telling investors they should not cooperate with the investigation. He also attempted to conceal banking activity, and began directing new investments to Lendle after learning that Mughal was under investigation.

[5] The Merits Decision concluded that:

a. Asif and Mughal committed a fraud on Mughal investors, in which Lendle knowingly participated, contrary to s. 126.1(b) of the *Act*;

b. Asif and Lendle committed a separate fraud against two Lendle investors, contrary to s. 126.1(b) of the *Act*;

c. Asif made false and misleading statements to the Commission, contrary to s. 122(1)(a) of the *Act*;

d. Asif disclosed the nature or content of an investigation order and details regarding a summons, contrary to s. 16 of the *Act*;

e. Asif's conduct offended the animating principles of the *Act*, and he engaged the Tribunal's public interest jurisdiction by:

i. disregarding the warning letter sent in 2019;

ii. interfering with the Commission's investigation; and

iii. telling at least one investor that he had settled this enforcement proceeding when no settlement had occurred.

3. PRELIMINARY ISSUES

3.1 Adjournment Motion

[6] At the outset of the sanctions and costs hearing, we denied the respondents' motion for an adjournment of the sanctions and costs hearing, with reasons to follow. These are our reasons for that decision.

[7] The Merits Decision was released on November 1, 2023. The parties agreed that the hearing with respect to sanctions and costs would be on March 5, 2024. They also agreed to a timetable for exchanging and filing materials including scheduling February 20, 2024, for the respondents to serve and file their responding written evidence and submissions. These terms were ordered by the Tribunal on November 28, 2023 (**November 28 Order**).[3]

[8] The respondents did not file any materials for the sanctions and costs hearing in accordance with the agreed timetable. On February 29, 2024, a lawyer wrote to the Tribunal on behalf of the respondents and advised that he was requesting an adjournment of the sanctions and costs hearing and a fresh timetable for the exchange of written materials. He stated in his email that should the adjournment be granted, he would be retained to appear on behalf of the respondents at the sanctions and costs hearing. He further stated that he would be out of the office until in or around mid-April.

[9] We advised that same day, via an email from the Registrar, that if the respondents were seeking an adjournment of the sanctions and costs hearing, it would be heard at the outset of the scheduled March 5 hearing. We also set a timetable for the filing and exchange of any evidence or written submissions that the parties intended to rely on in connection with the adjournment request.

[10] On March 1, Asif sent an email to the Tribunal, stating that:

a. he hired a lawyer so close to the date of the sanctions and costs hearing due to the financial burden he had been experiencing;

b. he has made it a priority to pay off remaining investors, who will be retracting their complaints in the next two weeks;

c. he would be severely prejudiced should he not be represented by counsel at the hearing;

d. he has suffered financial hardship, as a result of losing several business contracts and paying off investors involved in this matter, which has made it difficult to obtain legal counsel;

e. his mother's health has deteriorated; and

f. he had to relocate his family because a lien on his house obtained by the Commission precluded him from refinancing or selling the house, and he defaulted on the mortgages.

[11] Neither the lawyer nor anyone from the lawyer's office appeared at the adjournment motion. When asked, Asif (who appeared on his own behalf and on behalf of the corporate respondents) clarified that the respondents were seeking an adjournment until no later than the end of April. However, he was not in a position to confirm the lawyer's availability to deal with the sanctions and costs hearing in this timeframe.

[12] The Commission submitted that the respondents' request for an adjournment should be denied as they had not filed any evidence to demonstrate "exceptional circumstances" which might justify an adjournment and there was in general a lack of evidence filed in support of the adjournment request.

[13] The Commission submitted that a change in counsel or counsel unavailability is not by itself an exceptional circumstance. The Commission highlighted the fact that the individual the respondents proposed to retain as their lawyer for the sanctions and costs hearing was previously counsel of record in this proceeding and was also currently retained by the respondents in related proceedings.

[14] The Commission further submitted that the respondents had failed to offer a sufficient explanation as to why the lawyer had not been retained earlier and also why the adjournment request was made mere days before the scheduled hearing rather than seeking a variation of the schedule earlier to accommodate proposed counsel's availability. The Commission also submitted that the respondents had not explained whether they had looked for alternative counsel who was available to appear on the scheduled hearing date.

[3] *Mughal Asset Management Corporation (Re)*, (2023) 46 OSCB 9599

[15] In addition to the lack of evidence going to the matters related to retaining a lawyer, the Commission also submitted that Asif had not provided any documentation supporting his assertions that he allegedly had repaid or would repay investors, nor had he provided any supporting details or evidence of contracts he had lost or his financial circumstances.

[16] After considering the submissions of Asif and the Commission, we declined to grant the requested adjournment for the following reasons.

[17] Exceptional circumstances are required to justify an adjournment. Rule 29(1) of the Tribunal's *Rules of Procedure and Forms* (the ***Rules*** that were in place at the time the adjournment request was heard and decided) provides that every sanctions and costs hearing shall proceed on its scheduled date unless a party satisfies the Tribunal that "there are exceptional circumstances requiring an adjournment".

[18] A party seeking an adjournment is required to file and serve a motion to that effect. In this case, given that the respondents were self-represented and the adjournment was sought so close to the scheduled hearing, we exercised our discretion to waive the requirements of delivering a formal motion. The respondents were given the opportunity to serve and file evidence and written submissions in advance and made oral submissions seeking an adjournment at the opening of the hearing. We marked Asif's March 1 email as an exhibit that was treated like an affidavit of sworn evidence.

[19] The "exceptional circumstances" threshold is a high bar. It reflects the important objective set out in r. 1 of the *Rules* that Tribunal proceedings be conducted in a "just, cost effective and expeditious manner". While adjournments by their nature ordinarily disrupt existing plans, consume resources unnecessarily, and delay the conclusion of the hearing[4], the objective reflected in r. 1 must be balanced against the parties' ability to participate meaningfully in hearings and to present their case.[5] We engaged in this balancing exercise when making our decision.

[20] There are numerous Tribunal cases considering the application of its discretion to grant or deny adjournments. While each determination is necessarily dependent on the circumstances of the case, these cases have identified several non-exhaustive factors to consider, which we have done. These factors are:

a. whether the principal delay was caused by unforeseen circumstances;

b. whether the party attempted to deliberately delay or manipulate the process, or more generally the party's conduct in the case;

c. the seriousness of the potential consequences to the respondent;

d. whether more time is needed for the respondent to respond;

e. the Tribunal's interest in making decisions on a full factual record; and

f. any prejudice as a result of an adjournment.[6]

[21] The Tribunal has been clear in past cases that a change in counsel is not considered, by itself, exceptional circumstances.[7] We find that this principle also extends to circumstances where an unrepresented respondent decides to retain counsel after a proceeding is underway. In the recent case of *Valentine (Re)*, the Tribunal stated that when the unavailability of chosen counsel is the basis for an adjournment request, the requesting party must explain and justify its decision with evidence to establish exceptional circumstances.[8]

[22] In the case before us, the adjournment request was primarily based on the unavailability of counsel proposed to be retained. The respondents' other submissions relating to financial circumstances, Asif's mother's health and the need to relocate Asif's family were offered by way of explanation for the late retainer of counsel and presumably also the very late notice that an adjournment was being sought.

[23] The respondents cited no unforeseen circumstances to justify the adjournment, provided no explanation or justification for choosing to retain counsel who was unavailable and, we find, offered no persuasive explanation or evidence why their proposed counsel had not been retained earlier or why the need for an adjournment had not been raised earlier. Furthermore, because the respondents were unable to advise when their proposed counsel would be available for the hearing and did not have any proposal for a new hearing date and new timetable for the exchange of materials—basic

4 *Kitmitto (Re),* 2020 ONSEC 22 at para 27

5 *First Global Data Ltd (Re)*, 2022 ONCMT 23 (***First Global Adjournment***) at para 8; *Money Gate Mortgage Investment Corporation (Re)*, 2019 ONSEC 40 (***Money Gate Merits***) at para 54; *Odorico (Re)*, 2023 ONCMT 34 at para 26; *Go-To Developments Holdings Inc (Re)*, 2023 ONCMT 35 at para 18

6 *Pro-Financial Asset Management (Re),* 2018 ONSEC 18 (***Pro-Financial***) at para. 29

7 *Valentine (Re)*, 2023 ONCMT 33 (***Valentine***), para. 19*; Money Gate Merits* at paras 52-64; *First Global Adjournment* at paras 13-15; *Debus (Re),* 2020 ONSEC 20 (***Debus***) at paras 23-24; *Bridging Finance Inc (Re)*, 2023 ONCMT 17 at para 19

8 *Valentine at* para 19

details that should be a necessary element of any adjournment request—we were faced with an adjournment request for an indeterminate period of time.

[24] We bore in mind the serious consequences the respondents face in this hearing. That alone, however, is not enough in this case to justify an adjournment in the absence of any evidence or submissions that establish the "exceptional circumstances" required by our *Rules*. While a party appearing before the Tribunal has a right to be represented by counsel, that right is not absolute and there are other protections in place to ensure that self-represented respondents get a fair hearing.[9] We accordingly denied the request to adjourn this hearing.

3.2 Asif's request to give oral evidence at the outset of the sanctions and costs hearing

[25] Following our denial of the request to adjourn the hearing, we moved directly into the sanctions and costs hearing.

[26] As a preliminary matter, Asif requested permission to give oral evidence at the hearing. Neither he nor the corporate respondents had filed any evidence in advance of the hearing in accordance with the agreed timetable that was set out in the Tribunal's November 28 Order.

[27] Asif confirmed that the nature of his proposed evidence was to explain how he was paying back investors and has "corrected the situation". He also confirmed that he did not intend to seek to introduce any new documents as part of his evidence.

[28] The Commission did not object to Asif giving such evidence, on condition that (a) he not seek to introduce new documents, and (b) the Commission would be afforded the opportunity to cross-examine Asif and file reply evidence, if appropriate.

[29] We exercised our discretion to permit Asif to introduce his proposed evidence at the outset of the hearing, despite not complying with the terms of the Tribunal's November 28 Order. Our decision took into account:

a. that the Commission was not objecting;

b. the relatively narrow scope of the proposed evidence;

c. that the respondents are self-represented; and

d. our interest in having all potentially relevant evidence available to us in making our decision on sanctions and costs.

4. LEGAL FRAMEWORK FOR SANCTIONS

[30] The Tribunal may impose sanctions under s. 127(1) of the *Act* where it finds that it would be in the public interest to do so. The Tribunal must exercise this jurisdiction in a manner consistent with the *Act*'s purposes, which include the protection of investors from unfair, improper and fraudulent practices, and the fostering of fair and efficient capital markets.[10]

[31] The sanctions 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.[11]

[32] Sanctions must be proportionate to a respondent's conduct in the circumstances of the case.[12] Determining the appropriate sanctions is a highly contextual exercise that is dependent on the facts and findings in the particular case.

[33] In previous decisions, the Tribunal has identified a non-exhaustive list of factors applicable to the determination of appropriate sanctions, which include:

a. the seriousness of the misconduct;

b. the respondent's level of activity in the marketplace or, in other words, the "size" of the contravention;

c. whether the misconduct was isolated or recurrent;

d. the respondent's experience in the marketplace;

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9 *First Global* at para 13; *Debus* at paras 23-24
10 *Act*, s 1.1
11 *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at paras 42-43
12 *Bradon Technologies Ltd (Re)*, 2016 ONSEC 19 at paras 28, 47, citing *Cartaway Resources Corp (Re)*, 2004 SCC 26 at para 60

e. whether the respondent benefitted or profited from the misconduct;

f. any mitigating factors; and

g. the likely effect that any sanction would have on the respondent ("specific deterrence") as well as on others ("general deterrence").[13]

5. FACTORS RELEVANT TO SANCTIONS

[34] We will now consider the application of each of these factors in this case.

5.1 Seriousness of the misconduct

[35] The Commission submits that the respondents' misconduct was egregious. Asif acknowledges that there was wrongdoing but submits that the wrongdoing does not come close to the wrongdoing in some of the cases referred to by the Commission.

[36] For the following reasons we find that the respondents' misconduct was egregious.

[37] When assessing the seriousness of the misconduct, the Tribunal can consider the inherent nature of the contraventions and, in cases of fraud, the respondents' frame of mind at the time of the contraventions.[14]

[38] Fraud is one of the most serious securities law violations and often causes direct harm to investors and undermines confidence in the capital markets.[15]

[39] Mughal was a sham investment corporation solely owned, operated and controlled by Asif that did not conduct any legitimate investment business. It used investors' funds to pay simulated returns to other investors, satisfy withdrawal requests, and for Asif's personal spending.[16]

[40] Asif's conduct was deliberate. He knew that Mughal was not an investment firm, but advertised it as such through multiple communication channels, met with investors and created false "client forms".[17] Because Asif was also the directing mind of each of Mughal and Lendle, their conduct was deliberate as well.

[41] Asif's conduct was aggravated by his attempts over years to conceal his activities from the Commission and deliberately obstruct the investigation, as found in the Merits Decision.[18]

[42] This is not a case where the respondents were misguided or reckless. The respondents were running a Ponzi scheme and diverting significant funds for personal spending. They knew that their victims were going to lose money.[19]

5.2 Level of activity and whether isolated or recurrent

[43] The Tribunal has applied various measures to determine the level of activity and whether it is isolated or recurrent, including the dollar amount, the number of investors affected, the number of individual breaches, and the duration of the conduct.[20]

[44] The Commission submits, and we find, that the fraud in this case was long-running and wide-scale.

[45] Mughal and Asif raised at least $2.757 million and US$264,000 from at least 82 investors. Asif then continued the fraud with Lendle, raising an additional $70,000 from two investors.[21]

[46] These amounts, and the numbers of investors, are significant. In addition, the conduct was not isolated but recurrent, over a five year period.[22] The misrepresentations made to investors were repeated frequently through various channels of communication and advertisements.[23]

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13 *Belteco Holdings Inc (Re)*, (1998) 21 OSCB 7743 at 7746
14 *First Global Data Ltd (Re)*, 2023 ONCMT 25 (***First Global***) at para 14
15 *First Global* at para 18; *Money Gate Mortgage Investment Corporation (Re)*, 2021 ONSEC 10 (***Money Gate Sanctions***) at para 14
16 *Merits Decision* at paras 9, 43-45
17 *Merits Decision* at paras 10-11, 53-54, 57
18 *Merits Decision* at paras 87-119
19 *Merits Decision* at para 57
20 *First Global* at para 12
21 *Merits Decision* at paras 8, 83
22 *Merits Decision* at para 8
23 *Merits Decision* at para 11

5.3 Experience in the marketplace

[47] This factor typically refers to a respondent's level of experience as a participant in the capital markets. In the context of sanctions, its relevance is as a gauge of how aware the respondent was or ought to have been of the offending nature of their conduct.

[48] Asif incorporated Mughal in 2014 while he was still a university student. In October 2015 he sent an email to the Commission's Contact Centre asking about the regulatory requirements to establish a trading firm. The Commission submits this as evidence of Asif's awareness of the Commission's regulatory requirements. We do not find this evidence particularly helpful. There is no evidence the Commission ever gave a substantive response to Asif in 2015.

[49] That said, we do not find experience in the marketplace a relevant factor since there is no legitimate conduct occurring in the marketplace when perpetrating a fraud through a Ponzi scheme.

5.4 Benefit

[50] This factor considers whether the respondents made a profit, or avoided a loss, as a result of their misconduct. A contravention will generally attract greater sanctions where the respondents benefit from it.[24]

[51] The Merits Decision found that Asif received (or received the benefit of) $650,698 of Mughal investor funds directly from Mughal accounts, by way of payment of his personal expenses, payment of deposits for two residential real estate properties and transfers to him, to his personal Questrade account, to a joint bank account he shared with his brother and to his personal credit card. In addition, the Merits Decision found that both Mughal and Lendle received more investor funds than they transferred back to investors.

[52] As a result, we find that the respondents benefitted from their misconduct.

5.5 Mitigating Factors

[53] The Commission submits that there are no significant mitigating factors in this case. The Commission further submits that the fact that the respondents entered into an Agreed Statement of Facts (**ASF**) should be given limited weight as a potential mitigating factor, because (a) this only occurred after the first day of the Merits Hearing and (b) Asif's conduct during the Commission's investigations (i.e. making false and misleading statements to the Commission and failing to disclose material information) caused significant disruption, and should be considered a countervailing factor.

[54] As a general proposition, we accept that a respondent entering into an agreed statement of facts is a mitigating factor and, in appropriate circumstances, something to be encouraged by this Tribunal and taken into account in sanctions. Generally, an agreed statement of facts can avoid preparation time and expense for all parties as well as hearing time.

[55] In this case, however, we agree that the utility of the ASF for these purposes was limited. Prior to the Merits Hearing, the respondents had already indicated they would not be calling any witnesses or introducing any documents. The ASF was only entered into after the hearing commenced, following a confidential conference that was arranged on the first hearing day. We find that the ASF did not significantly reduce preparation time. It did, however, result in fewer hearing dates than had originally been scheduled, although this reduction was not significant.

[56] Consequently, we conclude that the ASF is not a significant mitigating factor.

5.6 Specific and general deterrence

[57] General deterrence is an important consideration when applied to serious contraventions. It must be clear to those who may be inclined to engage in similar misconduct that there are serious consequences for doing so.[25]

[58] Specific deterrence is tied to the purposes of investor protection and confidence in the capital markets. It seeks to ensure that the respondents are discouraged from engaging in similar conduct in the future.[26]

[59] The respondents perpetrated a serious fraud over an extended period of time. We find that the sanctions must reflect that seriousness to achieve the purposes of both general and specific deterrence. Fraud offends the animating principles of both investor protection, and fostering confidence in fair capital markets, and must be met with sanctions that firmly deter such conduct.

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24 *First Global* at para 26
25 *First Global* at para 56
26 *First Global* at para 57

6. NON-MONETARY SANCTIONS

[60] The Commission seeks comprehensive permanent bans to remove the respondents from participating in Ontario's capital markets. This includes permanent trading and acquisition bans and the removal of exemptions. The Commission also seeks permanent director, officer, registrant and promoter bans against Asif. The respondents did not propose any carve-outs to the requested bans.

[61] The Tribunal has repeatedly found that it is in the public interest to permanently deprive those who commit fraud of the privilege of participating in the capital markets.[27] The exceptions are rare and usually involve mitigating circumstances that are not present here.[28]

[62] We agree with the Commission's submission about the need for permanent market bans in this case. These sanctions are proportionate to the conduct at issue, are consistent with past cases of comparable misconduct, and achieve appropriate specific and general deterrence.[29] We agree with the Commission's submission that anything short of permanent bans in this case would result in substantial loss of confidence in the integrity of the capital markets and expose investors to risk.[30] Asif, in his submissions, advised that "there will be no investors in my future venture, unless if there's an institutional raise". We specifically draw this comment to the attention of Asif to caution him and make clear that he must ensure that any of his future business activities do not contravene the broad-based permanent bans that we are ordering.

7. FINANCIAL SANCTIONS

[63] The Commission seeks financial sanctions in the form of both disgorgement and administrative penalties.

[64] For the reasons below, we have decided that:

a. the respondents, jointly and severally, shall be ordered to pay to the Commission by way of disgorgement the sums of $661,077 and US$245,000;

b. Asif and Lendle, jointly and severally, shall be ordered to pay to the Commission by way of disgorgement $70,000;

c. the respondents, jointly and severally, shall pay to the Commission by way of administrative penalty, $800,000 in respect of their frauds; and

d. Asif shall be ordered to pay an additional $350,000 administrative penalty in respect of his additional breaches of Ontario securities laws.

7.1 Disgorgement

[65] The Commission is seeking two disgorgement orders representing, respectively, the full amount that the Merits Decision found had been raised from investors in connection with the "Mughal fraud" (namely, $2.757 million and US$264,000) and the "Lendle fraud" (namely, $70,000). The Commission is requesting that the first disgorgement order in respect of the Mughal fraud be made on a joint and several basis against all respondents and that the second disgorgement order in respect of the Lendle fraud be made on a joint and several basis against Asif and Lendle.

[66] For the reasons set out below, we find that a disgorgement order in respect of each of the frauds is appropriate and also that it is appropriate for the orders to be made on a joint and several basis, as described above. However, with respect to the Mughal fraud, we have determined that in the circumstances of this case the disgorgement figure should reflect a reduction for the amounts that the Merits Decision found the respondents transferred back to the Mughal investors.

7.1.1 General Principles

[67] Pursuant to paragraph 10 of s. 127(1) of the *Act*, the Tribunal may order disgorgement of "any amounts obtained as a result of the non-compliance" with Ontario securities law.[31]

[68] When considering whether a disgorgement order is appropriate, and if so in what amount, this Tribunal has established the following non-exhaustive list of factors to consider:[32]

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27 *First Global* at para 213
28 *First Global* at para 213
29 *First Global* at para 259; *Paramount Equity Financial Corporation (Re)* (***Paramount Equity***), 2023 ONCMT 20 at para 142; *Money Gate Sanctions* at para 84; *Meharchand (Re)*, 2019 ONSEC 7 at para 97
30 *First Global at* para 214
31 *Act*, s 127(1)10
32 *Feng (Re)*, 2023 ONCMT 43 at para 54; *First Global* at para 86; *Paramount* at para 72

a. whether an amount was obtained by a respondent as a result of 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.

7.1.2 Application of General Principles

[69] Below we consider each of these factors.

[70] First, the Merits Decision found that Mughal received at least $2.757 million and US $264,000 of investment funds from Mughal investors. The Merits Decision also found that Lendle received $70,000 from two investors. All these amounts were obtained by the respondents' fraudulent conduct. There is no doubt these amounts were obtained through non-compliance with Ontario securities laws as found by the Merits Decision.

[71] Second, we have already found that the misconduct was serious and the Merits Decision found that the misconduct caused direct harm to investors.

[72] Third, the amount obtained as a result of the non-compliance is readily ascertainable. These amounts were ascertained in the Merits Decision. The issue, which we will address separately below, is the consequence that should flow from the findings in the Merits Decision concerning the equally ascertainable amounts transferred from the respondents back to Mughal investors.

[73] Fourth, we consider if those who suffered losses are likely to be able to obtain redress. This entails taking into account the prospect of recovery for investors, but must be based upon the present facts, without speculating about future uncertain recoveries.[33]

[74] Asif gave evidence that in the months leading up to the hearing he repaid some investors. He stated that currently there are only five or six investors who are still owed money totalling less than approximately $500,000 and that it is his intention to repay these remaining investors in the future. Asif did not provide any further details about how much allegedly had been repaid, to which investors and when, nor did he provide any details about which investors were still owed money and in what amounts. He offered no corroborating evidence for his general statements. We find Asif's general statements without corroborating evidence insufficient to establish on a balance of probabilities that some investors have recovered their money from Asif since the Merits Decision was issued. Furthermore, Asif's statement of an intention to repay investors in future does not establish any certainty that investors will recover from him in future. Accordingly, we find that Asif's unsupported assertions about repayment of investors is not a reason for us to decline to make a disgorgement order or to reduce the amount ordered to be disgorged. The Commission submits, and we agree, that if circumstances warrant, it is available to the respondents to apply to vary the Tribunal's order.

[75] Finally, consistent with our discussion of deterrence above, we conclude that disgorgement is a necessary element of deterrence in this case of serious fraud to ensure that the respondents do not profit from the fraud. It also serves to deter others who might consider similar conduct.

[76] Accordingly, based on the factors listed above, we conclude that orders for disgorgement in respect of both the Mughal fraud and the Lendle fraud are appropriate in this case.

7.1.3 Should the disgorgement orders be joint and several?

[77] We have concluded that it is appropriate in the circumstances for the disgorgement order in respect of the Mughal fraud to be joint and several amongst all respondents and for the disgorgement order in respect of the Lendle fraud to be joint and several between Asif and Lendle.

[78] There is no requirement to show that the amounts obtained as a result of the non-compliance flowed directly to a particular respondent.[34] Even though a central purpose of disgorgement orders is to deprive wrongdoers of ill-gotten gains, a

[33] *Paramount Equity* at para. 86; *Money Gate Mortgage Investment Corporation (Re)*, 2021 ONSEC 10, paras 60-61

[34] *Paramount* at para 76; *First Global* at para 98; *David Charles Phillips et al*, 2015 ONSEC 36 (***Phillips***) at para 20, aff'd 2016 ONSC 7901 (Div Ct), at para 20; *North American Financial Group Inc. v Ontario Securities Commission*, 2018 ONSC 136 (Div Ct) (***North American Financial Group***) at paras 217-218

respondent wrongdoer who benefits only indirectly rather than directly cannot raise the indirect nature of the benefit as a shield to a disgorgement order.[35]

[79] The Tribunal has held that the directing minds of issuers that receive funds through a contravention of Ontario securities law should be jointly and severally liable for the disgorgement of those funds.[36] The Tribunal has been clear that "individuals should not be protected or sheltered from administrative sanctions by the fact that the illegal actions they orchestrated were carried out through a corporation which they directed and controlled."[37]

[80] The Merits Decision found that:

a. Asif was the directing mind of both Mughal and Lendle;

b. Lendle knowingly participated in the Mughal fraud;

c. Asif transferred funds between Mughal, Lendle and his personal accounts; and

d. Lendle received funds from Mughal and disbursed amounts to Mughal investors.

[81] In these circumstances we conclude that Asif should be held jointly and severally liable along with the corporate respondents. We also conclude that a joint and several order in relation to the Mughal fraud is appropriate for Lendle, despite the fact that Lendle's level of participation in the Mughal fraud was less extensive than Mughal's and Asif's. Given that Asif directed and controlled both corporate respondents and both were involved in the Mughal fraud, we see no reason to draw a distinction between them in making a disgorgement order.

7.1.4 Should the disgorgement order for the Mughal fraud reflect a reduction for amounts found to have been paid to Mughal investors?

[82] The Merits Decision determined that funds were both received from Mughal investors, and paid out to Mughal investors, by the respondents. In aggregate, Mughal received at least $2.757 million and US $264,000 from Mughal investors. The Merits Decision also found that Mughal transferred back to Mughal investors approximately $1.811 million and US $19,000, and that Lendle and Asif respectively transferred $201,573 and $83,350 back to Mughal investors.

[83] Based on these figures, the aggregate amount obtained by the respondents as a result of the Mughal fraud, and not transferred back to investors, was $661,077 and US $245,000.

[84] Some prior decisions of the Tribunal have held that disgorgement orders should be based on gross amounts obtained, rather than net amounts.[38] In these decisions the "amount obtained" does not mean the amount "retained" by the wrongdoer, nor does it mean the related profit from the wrongdoing or any other amount calculated by considering expenses and other possible deductions. In other words, it does not matter how the funds were used after they were obtained in contravention of the *Act*.[39] This approach ensures that wrongdoers do not benefit from their misconduct, it deters the wrongdoer and others, and provides a more straightforward method of calculation.[40]

[85] However, there are also several cases of this Tribunal where disgorgement amounts were reduced to reflect repayments made to investors, as a result of payments made from a receivership or otherwise.[41] This refinement to the general approach to "gross" and "net" amounts places a focus on the deprivation of investors as much as the receipt of funds by the wrongdoer.

[86] The Commission submits that the Mughal fraud disgorgement amount should be the total amount found in the Merits Decision to have been obtained by the respondents from Mughal investors, without deduction for amounts that were found to have been transferred back to Mughal investors. It urges the Tribunal to keep in mind the nature of the respondents' scheme and how the funds were obtained. Mughal was a sham in which new investor funds were used to pay simulated "profits" to, and satisfy withdrawal requests from, existing investors.

[87] There is some merit in this submission. The payments to investors in a Ponzi scheme are not intended to make investors whole or to repair harm done by the fraud; rather, they are a necessary element of the Ponzi scheme to allow it to continue.

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35 *Paramount* at para 76; *Feng* at para 66

36 *Paramount* at para 79; *First Global* at paras 114-115; *Quadrexx Hedge Capital Management Ltd (Re)*, 2018 ONSEC 3 (***Quadrexx***) at para 46; *North American Financial Group* at para 217; *Pro-Financial Asset Management (Re)*, 2018 ONSEC 18 (***Pro-Financial***) at para 61

37 *First Global* at para 97, citing *Limelight Entertainment Inc et al*, 2008 ONSEC 38 (***Limelight***) at para 59

38 *Feng* at para 67; *Limelight* at para 49

39 *Phillips* at para 19

40 *First Global* at para 100; *Al-Tar Energy Corp et al,* 2011 ONSEC 1 at para 71; *Pro-Financial* at para 49; *Limelight* at para 49

41 *Axcess Automation LLC et al.*, 2013 ONSEC 8 at paras. 42, 45; *Meharchand (Re)*, 2019 ONSEC 7 at paras. 72 and 76; *Paramount Equity Financial Corporation (Re)*, 2023 ONCMT 20 at paras. 83-85; *Phillips* at paras 53 and 56

[88] The permissive wording of the statute, and prior Tribunal cases, make clear that the Tribunal has discretion in determining when and to what degree a disgorgement order is in the public interest.[42] The challenge in this case is that we are faced with two competing, valid considerations in determining what, if any, reduction should be made to the full "amounts obtained".

[89] On the one hand, repayments of principal investments to investors should generally reduce the amount of a disgorgement order since the investors have ultimately recovered those amounts previously obtained by the wrongdoer.

[90] On the other hand, where repayments to investors are a feature of a fraud in the nature of a Ponzi scheme, intended to allow the fraud to continue, the Tribunal should be cautious in applying any offset to disgorgement for amounts repaid.

[91] We conclude that in the case of Ponzi schemes, and subject to the particular facts of each case, it is generally appropriate to reduce the "amounts obtained" by amounts of principal investments repaid to investors, but to not reduce the disgorgement amount for any payments made to investors as simulated "profits".

[92] Where a principal investment amount is repaid to an investor, the motive behind the payment, virtuous or otherwise, is generally neither easy nor necessary to establish. That investor has not been deprived of their investment regardless of the motive for the repayment. We think that, subject to other relevant considerations, it is generally appropriate to reduce a disgorgement amount to reflect such principal repayments.

[93] However, simulated returns paid as part of a fraudulent course of conduct in the nature of a Ponzi scheme are not repayments of investor principal. They exist for no reason other than the continuation of the scheme. Unlike the repayment of investor principal, the payment of such simulated returns does not reduce investor deprivation. In our view, and subject to other relevant considerations, no reduction of a disgorgement amount is generally appropriate for such amounts.

[94] In the current case, these considerations are complicated by the available evidence before the Tribunal and the findings made in the Merits Decision.

[95] As described above, the Merits Decision sets out total amounts obtained by the respondents, and total amounts transferred back to Mughal investors by the respondents. These amounts were based on the detailed evidence submitted by the Commission through its investigator witness, a senior forensic accountant. The Merits Decision noted that the investigator's methodology, assumptions and judgment calls with respect to his analysis related to Mughal investor funds were reasonable, and that he took a conservative approach.

[96] However, the merits panel was not asked to make, and did not make, any findings in the Merits Decision about the constituent elements of the amounts that were transferred back to Mughal investors, including whether and to what extent these amounts were transferred as repayment of principal or as simulated "profits".

[97] The Commission draws our attention to examples contained in the investigator's analysis of the respondents' banking records, where it appeared some Mughal investors may have been paid more than the principal they invested (i.e. both their principal and some simulated profits), or where payments were subject to a notation such as "profit payout", "payout" or "account closed". It notes other instances where there was a lack of clarity around the identity of the particular investor who had received a payment or where a payment was made to an individual for whom the Commission did not have records establishing how much that individual had invested. Based on these examples, which the Commission says reflect uncertainty regarding the nature of the transfers to investors, the Commission submits that it is not possible to know which investors have been fully repaid and also that it is possible and even likely that certain investors have been overpaid while others have not been repaid at all.

[98] The Commission submits that it bears, and has discharged, the burden to establish on a balance of probabilities the "amount obtained" by the respondents as a result of their non-compliance with the Act. Subject to that onus, any risk of uncertainty in calculating the disgorgement amount, including in this case in calculating and establishing the amount of principal that was repaid to Mughal investors, should fall on the wrongdoer whose non-compliance with the *Act* gave rise to the uncertainty.[43]

[99] The Commission submits that, based on the lack of the respondents' business records and their failure to cooperate with the investigation (including by failing to provide a list of the Mughal investors), it is not possible to determine what portion of the amounts transferred back to Mughal investors was repayment of investor principal.

[100] We find no factual or evidentiary basis for the Commission's submission that such a determination is not possible. The investigator did not include such a breakdown in his analysis, but did not testify that it was not possible. The Commission confirms that this work has not been done, and, when pressed, suggests that the investigator could be asked if it is

[42] *Pro-Financial* at para 50; *Paramount* at para 88
[43] *Limelight*, para 53; *Polo Digital Assets, Ltd (Re)*, 2022 ONCMT 32 at para 118

possible to do such a breakdown. The Commission agrees that the investigator's analysis does include evidence of some repayment of principal to investors, but no work has been done to tally such amounts.

[101] We accept that the onus of proof regarding any uncertainty in the disgorgement calculation generally shifts to a respondent once the Commission has established the "amount obtained" by the respondents as a result of their non-compliance with the Act. However, here we are faced with the unusual situation that the Merits Decision, based on acceptance of the Commission's own evidence, made a specific finding of ascertainable amounts transferred back to investors. Further the Commission acknowledges that its own evidence reflects repayment of principal but no work has been undertaken to add up the amounts. Based on the examples in the investigator's analysis that the Commission draws to our attention, it appears that it would have been a reasonably straightforward exercise for the Commission's investigator to have, at the very least, identified those repayments or portions of repayments that are clearly attributable to the repayment of investor principal, such that those amounts could be deducted from any disgorgement amount.

[102] In this unique situation, considering the sizeable amounts of the transfers back to Mughal investors when compared to the gross amounts obtained, and in the absence of any effort by the Commission to identify the amount of repayment of principal based on the analysis already prepared by its investigator, we determine that it is in the public interest for the disgorgement ordered in connection with the Mughal fraud to reflect a reduction for the amounts transferred back to Mughal investors.

[103] As a result, we conclude that the respondents shall be ordered to disgorge to the Commission in respect of the Mughal fraud, jointly and severally, the amounts of $661,077 and US$245,000.

[104] Given that there was no finding in the Merits Decision of any repayments in connection with the Lendle fraud, we also conclude that Lendle and Asif shall be ordered to disgorge to the Commission, jointly and severally, $70,000.

7.2 Administrative penalty

[105] The Commission requests that we make an order requiring the respondents to pay, on a joint and several basis, an administrative penalty in the amount of $800,000 in relation to the frauds they committed. The Commission also requests an order that Asif pay an additional administrative penalty of $350,000 in connection with his other breaches of Ontario securities laws.

[106] For the reasons set out below, we decide that such orders are appropriate.

[107] Paragraph 9 of s. 127(1) of the *Act* provides that if a person or company has not complied with Ontario securities law, the Tribunal may require the person or company to pay an administrative penalty of not more than $1 million for each failure to comply.[44]

[108] In deciding the appropriate administrative penalties, we have taken a global view of all the sanctions imposed on each respondent, taking into account the disgorgement orders and the fact that the respondents will be prohibited from participating in the capital markets.[45] We have also taken into account the fact that the disgorgement order in connection with the Mughal fraud gives full credit for all amounts transferred back to Mughal investors.

[109] We have considered both specific and general deterrence, and the extent to which those objectives are achieved by the other sanctions imposed.[46] The administrative penalties must also be meaningful and not just reflect a "cost of doing business".[47]

[110] Factors we have considered in determining the appropriate administrative penalties in this case include:[48]

a. the scope and seriousness of the respondents' misconduct;

b. whether there were multiple or repeated breaches of the *Act*;

c. whether the respondents realized any profit as a result of their misconduct;

d. the amount of money raised from investors;

e. the harm caused to investors; and

f. the level of administrative penalties imposed in other cases.

44 *Act*, s 127(1)9; *First Global* at para 150
45 *First Global* at para 152; *Paramount* at para 113
46 *First Global* at para 152; *Quadrexx* at para 58
47 *First Global* at para 152
48 *First Global* at para 152; *Money Gate* at para 67

[111] The first five of these factors have been canvassed earlier in these reasons, in relation to factors relevant to sanctions generally.

[112] We note, at the outset, that the rationale for making joint and several orders for disgorgement against the respondents, set out above, applies equally to the administrative penalty in respect of the frauds.[49] While Lendle and Asif were involved in two frauds, given the size of the Lendle fraud and the relationship between the two frauds, we do not think this warrants drawing a distinction between the respondents. Asif's additional independent breaches attract a separate administrative penalty.

[113] In previous cases, where the respondents have committed multiple contraventions of Ontario securities law, including distinct courses of conduct found to be fraudulent, and where the magnitude of the fraud was significant, the Tribunal has found that high administrative penalties are warranted.[50]

[114] Each case is unique, with different amounts raised, numbers of investors, aggravating and mitigating factors. Yet a pattern emerges that supports high administrative penalties in serious frauds even where, unlike here, the respondents were running a legitimate underlying business or invested some funds as represented to investors. Two recent cases demonstrate this.

[115] In *First Global Data Ltd (Re)*, the Tribunal considered a fraud involving a number of parties that had raised approximately $4.5 million from 80 investors. The case also involved the illegal distribution of securities without a prospectus and unregistered trading. The Tribunal ordered permanent market bans and disgorgement in addition to over $3 million in administrative penalties, with the most culpable respondents being ordered individually to pay $825,000, $750,000 and $725,000, respectively.[51]

[116] In *Paramount Equity Financial Corporation (Re)*, the fraud involved the application of a portion of investor funds in a manner different from what was promised, following an illegal distribution. Some $43 million was misapplied. In addition to permanent market bans and full disgorgement the Tribunal also ordered the individual respondents to pay administrative penalties of $1.5 million, $1.0 million and $500,000, recognizing their different levels of culpability.[52]

[117] In this case, given the extent and nature of the fraud as an unmitigated Ponzi scheme that never had any legitimate underlying business, and taking into account all the other factors discussed above, we find an administrative penalty of $800,000 payable jointly and severally by the respondents is appropriate and proportionate to sanctions ordered in other recent fraud cases.

[118] Apart from the frauds, the Merits Decision found that Asif breached Ontario securities laws:

a. by making multiple false and misleading statements during the Commission's investigations contrary to s. 122(1)(a) of the *Act,* including during two interviews while under oath; and

b. disclosing the Commission's investigation to an investor and providing a copy of his summons to an individual, contrary to s. 16 of the *Act*.

[119] The Commission seeks a separate administrative penalty against Asif of $350,000 in respect of these breaches.

[120] We find that this conduct by Asif merits a separate administrative penalty. In terms of the amount, the most recent instructive case is *Kitmitto (Re)*,[53] where one of several respondents was found to have misled the Commission with a number of answers in the course of one examination. The Tribunal noted, citing Ontario Court of Appeal authority, that "[i]t is difficult to imagine anything that could be more important to protecting the integrity of [the] capital markets than ensuring that those involved in those markets ... provide full and accurate information to the [Commission]."[54] In *Kitmitto*, the particular respondent was ordered to pay an administrative penalty that included $250,000 for his misleading the Commission in his examination.[55]

[121] Asif's conduct is more significant than that addressed in *Kitmitto.* His attempts to mislead spanned two examinations under oath and written communications. He also was found to have breached s. 16 of the *Act*, which is in place to protect the integrity of the Commission's investigations.

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49 *Natural Bee Works Apiaries Inc (Re)*, 2019 ONSEC 31 at para 88; *Axcess Automation LLC et al*, 2013 ONSEC 8 at para 53; *Bluestream Capital Corporation et al*, 2015 ONSEC 12 at para 11(h); *International Strategic investments et al*, 2015 ONSEC 17 at paras 11-13

50 *Paramount* at paras 114-115

51 *First Global* at paras 2, 13, 259

52 *Paramount* at paras 2, 142

53 2023 ONCMT 4 (***Kitmitto***)

54 *Kitmitto* at para 46, citing *Wilder v Ontario Securities Commission*, 2001 CanLII 24072 (ONCA) at para 22

55 *Kitmitto* at para 46

[122] We conclude that a separate administrative penalty in the amount of $350,000 payable by Asif is appropriate. This is in addition to the joint and several administrative penalty ordered to be paid by all respondents.

8. COSTS

[123] The Commission seeks an order that the respondents pay the Commission its costs of the investigation and hearing in the amount of $295,413.65, on a joint and several basis.

[124] For the reasons that follow, we find that the respondents shall be ordered to pay the Commission's costs of the investigation and hearing in the amount sought by the Commission.

[125] The Tribunal may order a person or company to pay the costs of an investigation or hearing if the Tribunal is satisfied that the person or company has not complied with Ontario securities law or has not acted in the public interest.[56]

[126] A costs order is discretionary and is designed to reduce the burden on market participants to pay for investigations and enforcement proceedings.[57]

[127] As is typical, in support of its submission the Commission has filed extensive affidavit evidence of the time spent on the matter, supported by docket summaries, and invoices confirming disbursements. Also as is typical, it has filed a Bill of Costs, divided into Costs Incurred and Costs Sought.

[128] The Costs Incurred are less than the Commission's actual costs, as they do not include all of the time incurred by the Commission. For example, time spent by employees of the Commission who recorded 35 or fewer hours on the matter, and time spent with respect to matters that were not ultimately included in the Statement of Allegations, is not included.

[129] The total Costs Incurred, calculated by the Commission and not contested, were $432,741.09.

[130] The Costs Incurred were further reduced to generate the Costs Sought. To do so, the Commission excluded time spent and disbursements with respect to the separate but related temporary cease trade and freeze order proceedings against the respondents, plus time spent by a law clerk. An additional 10% discount was also applied against the remaining recorded time.

[131] Those exclusions and discount took the Costs Incurred down to Costs Sought of $295,413.65.

[132] We considered whether the Commission's lack of success at the merits hearing regarding alleged breaches of s. 13 and s. 129.2 of the *Act* warrants a reduction in the costs the Commission is claiming. We decided that it does not. These alleged breaches were based on legal argument made on the basis of facts that were separately established in connection with other breaches that the Tribunal did find. As such, we conclude that such unsuccessful allegations did not add in any material way to the Commission's costs.

[133] In considering costs, we also bear in mind the conduct of Asif, as described in the Merits Decision, including in particular the finding that he concealed the existence of documents and information from the Commission during the investigation. We accept the Commission's submission that Asif's conduct undoubtedly increased the time needed in the investigation to derive information that should otherwise have been readily available.

[134] We also took into account the fact that the parties entered into the ASF after the merits hearing was already in progress. We considered whether the fact of the ASF should operate to reduce the amount of costs in this case. While a respondent's willingness to reduce hearing time by admitting facts may, in appropriate cases, be worthy of some recognition in the consideration of costs, in this case we do not think it should. Here, the timing of the ASF did not materially change the time expended in preparing for the hearing by the Commission. Preparation was already largely complete when the hearing began, and obviously no costs are claimed by the Commission for attending hearing days that did not proceed as a result of the ASF.

[135] Finally, we considered the overall amount of the claimed costs in comparison to costs ordered in other Tribunal cases involving hearings of comparable complexity and projected length. Overall, we find the amount of costs claimed to not be unreasonable, or out of step with other cases.

[136] On balance, we believe these factors justify a costs award in the amount of $295,413.65, as claimed by the Commission, to be paid by the respondents jointly and severally.

[56] *Act*, s 127.1
[57] *First Global* at para 231; *Quadrexx* at para 118

9. CONCLUSION

[137] The sanctions we have set out above are proportionate to the misconduct in this case and appropriate when considered together in the context of each respondent. They ensure that none of them profit, directly or indirectly, from their misconduct and are tailored to effect both general and specific deterrence.

[138] For the reasons set out above, we shall issue an order that provides as follows:

a. As against all respondents, an order:

i. pursuant to paragraph 2 of s. 127(1) of the *Act* that trading in any securities cease permanently;

ii. pursuant to paragraph 2.1 of s. 127(1) of the *Act* that the acquisition of any securities is prohibited permanently;

iii. pursuant to paragraph 3 of s. 127(1) of the *Act* that any exemptions contained in Ontario securities law do not apply permanently;

iv. pursuant to paragraph 8.5 of s. 127(1) of the *Act* permanently prohibiting them from becoming or acting as a registrant, an investment fund manager or a promoter;

v. pursuant to paragraph 9 of s. 127(1) of the *Act* that they jointly and severally pay to the Commission an administrative penalty of $800,000;

vi. in connection with the Mughal fraud, pursuant to paragraph 10 of s. 127(1) of the *Act* that they jointly and severally disgorge to the Commission $661,077 and US$245,000;

vii. pursuant to s. 127.1 of the *Act* that they jointly and severally pay $295,413.65 to the Commission for the costs of the investigation and hearing; and

b. as against Asif and Lendle, an order in connection with the Lendle fraud, pursuant to paragraph 10 of s. 127(1) of the *Act* that they jointly and severally disgorge to the Commission $70,000; and

c. as against Asif, an order:

i. pursuant to paragraphs 7, 8.1 and 8.3 of s. 127(1) of the *Act* that he immediately resign any positions that he holds as a director or officer of any issuer, registrant or investment fund manager;

ii. pursuant to paragraphs 8, 8.2 and 8.4 of s. 127(1) of the *Act* that he is prohibited permanently from becoming or acting as a director or officer of any issuer, registrant or investment fund manager; and

iii. pursuant to paragraph 9 of s. 127(1) of the *Act* that he pay to the Commission an administrative penalty of $350,000.

Dated at Toronto this 3rd day of June, 2024

“Andrea Burke”

“Geoffrey D. Creighton”

“Mary Condon”

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B. Ontario Securities Commission

B.1
Notices

B.1.1 CSA Multilateral Staff Notice 25-312 Reminder of Cessation of CDOR on June 28, 2024

Canadian Securities Administrators | Autorités canadiennes en valeurs mobilières

CSA MULTILATERAL STAFF NOTICE 25-312
REMINDER OF CESSATION OF CDOR ON JUNE 28, 2024

June 6, 2024

Introduction

Staff of the Ontario Securities Commission, Autorité des marchés financiers, British Columbia Securities Commission and Alberta Securities Commission are publishing this notice to remind market participants that the Canadian Dollar Offered Rate (**CDOR**) will cease to be published after a final publication on Friday, June 28, 2024 (the **CDOR Cessation Date**).

Transition arrangements

On February 23, 2023, the Canadian Securities Administrators (**CSA**) published CSA Staff Notice 25-309 *Matters Relating to Cessation of CDOR and Expected Cessation of Bankers' Acceptances* (the **2023 Notice**).[1] The purpose of the 2023 Notice was to help ensure that market participants were aware of transition issues regarding the cessation of CDOR on the CDOR Cessation Date and the related cessation of the issuance of Bankers' Acceptances.

Among other things, the 2023 Notice encouraged appropriate action well in advance of the CDOR Cessation Date by market participants that have issued or hold securities, or that are parties to derivatives or loan agreements, which:

- use CDOR as a reference rate, and
- extend, or might extend, past the CDOR Cessation Date.

The 2023 Notice indicated that transition arrangements would include ensuring that the relevant contractual provisions for these securities, derivatives and loans had appropriate fallback language that specifies a replacement rate for CDOR.[2]

CARR guidance

On April 30, 2024, the Canadian Alternative Reference Rate working group (**CARR**) published guidance to assist market participants that have not yet adopted appropriate transition arrangements, including appropriate fallback language for existing securities, derivatives and loan agreements.[3]

If market participants have not already adopted appropriate transition arrangements, they should do so immediately.

1 A copy of the 2023 Notice is at https://www.osc.ca/sites/default/files/2023-02/csa_20230223_25-309_cessation-of-cdor.pdf.

2 "Fallback language" refers to the contractual provisions in an instrument that set out the process by which a replacement rate is to be used if a benchmark is not available for use. In the absence of appropriate fallback language, the 2023 Notice indicated that issuers or market participants may need to take actions to mitigate risk, such as renegotiating a contractual provision in an instrument or amending the instrument to include robust fallback language.

3 A copy of the CARR guidance is at https://www.bankofcanada.ca/2024/04/carr-reiterates-that-market-participants-with-cdor-based-loans-derivatives-or-securities-must-prepare-cdors-cessation-post-june-28-2024/. We note that CARR has published other documents to assist market participants with transition arrangements on the CARR website at https://www.bankofcanada.ca/markets/canadian-alternative-reference-rate-working-group/.

Questions

Please refer your questions to any of the following:

Michael Bennett
Senior Legal Counsel, Corporate Finance
Ontario Securities Commission
416-593-8079
mbennett@osc.gov.on.ca

Melissa Taylor
Senior Legal Counsel, Corporate Finance
Ontario Securities Commission
416-596-4295
mtaylor@osc.gov.on.ca

Serge Boisvert
Senior Policy Coordinator
Autorité des marchés financiers
514-395-0337 poste 4358
serge.boisvert@lautorite.qc.ca

Roland Geiling
Derivatives Product Analyst
Autorité des marchés financiers
514-395-0337 poste 4323
roland.geiling@lautorite.qc.ca

Harvey Steblyk
Senior Legal Counsel, Market Regulation
Alberta Securities Commission
403-297-2468
harvey.steblyk@asc.ca

Janice Cherniak
Senior Legal Counsel, Market Regulation
Alberta Securities Commission
403-585-6271
janice.cherniak@asc.ca

Michael Brady
Deputy Director, Capital Markets Regulation
British Columbia Securities Commission
604-899-6561
mbrady@bcsc.bc.ca

Faisal Kirmani
Senior Analyst, Derivatives
British Columbia Securities Commission
604-899-6846
fkirmani@bcsc.bc.ca

B.2
Orders

B.2.1 REALnorth Opportunities Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Securities Act, s. 88 – The securities of the issuer are beneficially owned by more than 50 persons and are not traded through any exchange or market – The issuer is in the process of winding up; the issuer has distributed almost all of its assets to shareholders; the issuer has ceased all commercial activity and will be dissolved after the liquidation process is complete; shareholders voted to approve the liquidation plan and were notified of the issuer's intention to file an application to cease to report; the issuer has undertaken to provide shareholders with alternative disclosure and to notify the securities regulator if they commence an active business and no longer intend to dissolve.

Applicable Legislative Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 88.
Securities Act, R.S.O. 1990, c.S.5, as am., s. 1(10)(a)(ii).

Citation: 2024 BCSECCOM 221

May 16, 2024

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
REALNORTH OPPORTUNITIES FUND
(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 a decision 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 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, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island and Saskatchewan; 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 trust formed in British Columbia pursuant to a declaration of trust dated August 27, 2014 (the Declaration of Trust);

2. the Filer's head office is located in North Vancouver, British Columbia;

3. the Filer currently has approximately 11,215 units (Units) issued and outstanding; the Units are the only issued and outstanding securities of the Filer;

4. as of April 17, 2024, based on the Filer's diligent inquiries conducted with Broadridge Financial Solutions, Inc., the Filer has one registered unitholder and 566 beneficial unitholders in the following jurisdictions:

British Columbia	218
Ontario	150
Alberta	64
Quebec	1
Saskatchewan	79
Manitoba	41
New Brunswick	2
Northwest Territories	1
United States	8
Other Foreign	2

5. the Filer is a reporting issuer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan;

6. on January 24, 2024, the Filer announced, among other things, that:

   (a) the Filer had entered into agreements to sell its remaining properties (the Exit Sale);

   (b) the intention of the trustees of the Filer to wind-up and terminate the Filer in accordance with the Declaration of Trust following the completion of the Exit Sale (the Fund Termination);

   (c) the Exit Sale and the Fund Termination would be put forward to unitholders for approval by way of an ordinary resolution (in the case of the Exit Sale, the Exit Sale Resolution) and a special resolution (in the case of the Fund Termination, the Fund Termination Resolution) at special meeting of unitholders of the Filer to be held on March 21, 2024 (the Meeting); and

   (d) the intention of the Filer to apply to cease to be a reporting issuer following the completion of the Exit Sale;

7. the Filer sent an information circular dated February 22, 2024 to its unitholders in advance of the Meeting and re-iterated the Filer's intention to apply to cease to be a reporting issuer following the completion of the Exit Sale;

8. at the Meeting, holders of 100% of the Units represented at the Meeting, both in person and by proxy, voted in favour of each of the Exit Sale Resolution and the Fund Termination Resolution;

9. on April 1, 2024, the Filer issued a news release announcing, among other things:

   (a) the results of the Meeting, with each of the Exit Sale Resolution and Fund Termination Resolution approved with 100% of votes cast in person and by proxy in favour of each resolution;

   (b) the closing of the Exit Sale;

   (c) the Filer's intention to apply to cease to be a reporting issuer following the completion of the Exit Sale; and

   (d) the commencement of the wind-up of the Filer;

10. as of April 1, 2024, the Filer's remaining assets consisted of cash and an assignable promissory note issued to one of the Filer's subsidiaries as partial consideration under the Exit Sale (the Note);

11. on April 29, 2024, the Filer announced that:

   (a) it has filed the application to cease to be a reporting issuer in all applicable jurisdictions of Canada; and

   (b) it will make an interim distribution to its unitholders of $176 per Unit on or about May 3, 2024;

12. on May 3, 2024, the Filer completed that interim distribution, which represents substantially all of the Filer's remaining assets, save for a reserve to satisfy the Filer's remaining liabilities, general and administrative costs in connection with the wind-up and professional fees;

13. following the sale of the Note and the release and satisfaction of all liabilities of the Filer and its subsidiaries, the Filer will make a final distribution of its remaining funds to its unitholders (the Final Distribution) and terminate the Filer in accordance with the Declaration of Trust as approved by the Fund Termination Resolution;

14. the expected time frame to obtain the release and discharge of the liabilities of the Filer and its subsidiaries is approximately three to nine months;

15. all of the issued and outstanding Units will be redeemed in accordance with the Declaration of Trust upon the payment of the Final Distribution;

16. the Filer has no intention to seek public financing by way of an offering of securities;

17. the Filer has undertaken that:

   (a) it will, as soon as practicable, following the decision (the Order) that it is no longer a reporting issuer, issue a news release advising unitholders that is has ceased to be a reporting issuer, and the anticipated timing of the termination of the Filer and payment of the Final Distribution;

   (b) on or before each 3 month period after the date of Order, if the Filer still has not been terminated, it will issue a news release regarding the status of its wind-up and the anticipated timing of the termination of the Filer;

   (c) it will not re-commence any active business or any commercial operations or propose to undertake a public or private offering of securities in any jurisdiction; and

   (d) as soon as practicable after the time of termination of the Filer, it will issue a news release confirming the termination of the Filer;

18. the Filer intends to maintain its website pending termination of the Filer and will post its news releases on its website;

19. the Filer is not in default of securities legislation in any jurisdiction other than its obligation to file on or before April 29, 2024 its annual financial statements and related management discussion and analysis for the fiscal year ended December 30, 2023, as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings);

20. the requirements to file the Filings did not arise until after the completion of the Exit Sale;

21. no securities of the Filer, including debt securities, are or have ever been 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;

22. the Filer is not an OTC reporting issuer as defined in Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;

23. the Filer is not eligible to use the simplified procedure in section 19 of National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as it has more than 50 securityholders worldwide;

24. the Filer is not eligible to use the modified procedure in section 20 of National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as it is not incorporated or organized under the laws of a foreign jurisdiction;

25. the Filer is applying for the Order Sought from the securities regulatory authority or regulator in each of the jurisdictions of Canada in which it is a reporting issuer; and

26. the Filer, upon the grant of the Order Sought, will no longer be a reporting issuer in any jurisdiction of Canada.

¶ 4 **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.

“Noreen Bent”
Chief, Legal Services, Corporate Finance
British Columbia Securities Commission

OSC File #: 2024/0167

B.2.2 LMAX Pte. Ltd. – s. 147

Headnote

Section 147 of the Securities Act (Ontario), section 15.1 of NI 21-101, section 12.1 of NI 23-101 and section 10 of NI 23-103 – Application for an order that a recognised market operator authorized by the Monetary Authority of Singapore is exempt from the requirement to be recognized as an exchange in Ontario and from the requirements of NI 21-101, NI 23-101 and NI 23-103 in their entirety – requested order granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21, 147.
National Instrument 21-101 Marketplace Operation, s. 15.1.
National Instrument 23-101 Trading Rules, s. 12.1.
National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces, s. 10.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S. 5,
AS AMENDED
(the Act)

AND

IN THE MATTER OF
LMAX PTE. LTD.

ORDER
(Section 147 of the Act)

WHEREAS LMAX Pte. Ltd. (**Applicant**) has filed an application dated April 18, 2024 (Application) with the Ontario Securities Commission (**Commission**) requesting an order for the following relief (collectively, the **Requested Relief**):

(a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and

(b) exempting the Applicant from the requirements in National Instrument 21-101 Marketplace Operation (NI 21-101) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 Trading Rules (NI 23-101) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces (NI 23-103) pursuant to section 10 of NI 23-103;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is a private limited company incorporated under the laws of the Republic of Singapore and a wholly owned direct subsidiary of LMAX Exchange Group Limited, a private limited company incorporated under the laws of the Bailiwick of Jersey;

2. The Applicant has obtained recognition as a recognised market operator (**RMO**) from the Monetary Authority of Singapore (**MAS**);

3. The Applicant's current recognition as an RMO from the MAS, dated November 17, 2023, permits the Applicant to: (a) operate an organised market (**OM**) in respect of over-the-counter derivatives contracts (e.g., credit default swaps, interest rate swaps, foreign exchange derivatives, and commodity derivatives); and (b) in respect of participants in Singapore, make available its OM to Professional Investors, Accredited Investors and Expert Investors, as such terms are defined within the Applicant's RMO Recognition Letter and the *Singapore Securities and Futures* Act 2001 (**SFA**);

4. The Applicant is the operator of an OM, operated under the trading name **LMAX Exchange**, that is regulated and authorised by the MAS to allow trading of foreign exchange non-deliverable forward contracts (**FX NDFs** or the **Ontario Market Instruments**);

5. The subject of this order is the trading system operated by LMAX Exchange that facilitates the placing and matching of transactions in Ontario Market Instruments;

6. The Applicant is subject to regulatory supervision by the MAS and is required to comply with applicable Singapore laws, subsidiary legislation, notices and guidelines issued by the MAS (collectively, the **Applicable Rules**), which include, among other things, rules on (i) the conduct of business (including rules regarding client categorization, communication

with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating an OM), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The MAS requires the Applicant to comply at all times with a set of threshold conditions for authorization and ongoing requirements, including requirements that the Applicant has sound business and controlled business operations and that it has appropriate resources for the activities it carries on. The Applicant is required to maintain a permanent and effective compliance function, which is headed by the Applicant's Compliance Officer. The Applicant's Compliance Department is responsible for implementing and maintaining adequate policies and procedures designed to ensure that the Applicant, its officers and all its employees comply with their obligations under the Applicable Rules;

7. An OM is obliged under MAS rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and report to the MAS (i) significant breaches of the rules in the LMAX Exchange RMO Rulebook (**RMO Rulebook**), (ii) disorderly trading conditions, and (iii) conduct that may involve market abuse. As required by the Applicable Rules, the Applicant has implemented a trade surveillance program. As part of the program and as required by the MAS, the Applicant's Compliance and Market Operations teams conduct market monitoring of trading activity on LMAX Exchange to identify disorderly trading and market abuse or anomalies. The trade surveillance program is designed to maintain a fair and orderly market for LMAX Exchange's participants;

8. The Applicant is not involved in, nor is it responsible for, settlement or clearing of FX NDFs and the counterparties to such trades make their own bilateral arrangements;

9. The Applicant requires that each of its participants incorporated or established in Singapore be an "institutional investor," "professional investor," "accredited investor" or "expert investor" as defined in the SFA. Each prospective participant must be of sufficient good repute; have sufficient levels of trading ability, competence and experience; and have adequate governance and organisational arrangements to oversee their trading;

10. All participants located in Ontario, including participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (**LEI**)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario Participants**) are required to be registered under Ontario securities laws, exempt from registration or not subject to registration requirements. An Ontario Participant is required to immediately notify the Applicant if it ceases to meet any of the above criteria represented by it on an ongoing basis. An Ontario Participant may be a bank member of LMAX Exchange or a direct market access client of a bank member;

11. The Applicant does not offer access to retail clients;

12. Because LMAX Exchange sets requirements for the conduct of its participants and surveils certain trading activity of its participants, it is considered by the Commission to be an exchange;

13. Because the Applicant seeks to provide Ontario Participants with direct access to trading the Ontario Market Instruments on LMAX Exchange in accordance with the Requested Relief, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;

14. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein; and

15. The Applicant satisfies the exemption criteria as described in Appendix "I" to Schedule "A";

AND WHEREAS the products traded on LMAX Exchange are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

AND WHEREAS the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Requested Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the Requested Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgments of the Applicant to the Commission, the Commission has determined that the Applicant satisfies the criteria set out in Appendix "I" to Schedule "A" and that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act, and (ii) pursuant to sections 15.1 of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements in NI 21-101, NI 23-101 and NI 23-103,

PROVIDED THAT the Applicant complies with the terms and conditions contained in Schedule "A".

DATED May 28, 2024

"Michelle Alexander"
Manager, Trading and Markets
Ontario Securities Commission

SCHEDULE "A"

TERMS AND CONDITIONS

Meeting Criteria for Exemption

1. The Applicant will continue to meet the criteria for exemption included in Appendix "I" to this Schedule.

Regulation and Oversight of the Applicant

2. The Applicant will maintain its recognition as a Recognised Market Operator (**RMO**) with the Monetary Authority of Singapore (**MAS**) to operate an organised market (**OM**) and will continue to be subject to the regulatory oversight of the MAS.

3. The Applicant will continue to comply with the ongoing requirements applicable to it as an RMO recognised by the MAS.

4. The Applicant will promptly notify the Commission if its recognition as an RMO has been revoked, suspended, or amended by the MAS, or the basis on which its recognition as an RMO has been granted has significantly changed.

5. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

Access

6. The Applicant will not provide direct access to a participant in Ontario including a participant with its headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (**LEI**)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario Participant**) unless the Ontario Participant is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.

7. For each Ontario Participant provided direct access to the Applicant's OM (whether as a bank member or as a direct market access client), the Applicant will require, as part of its application documentation or continued access to the OM, the Ontario Participant to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.

8. The Applicant may reasonably rely on a written representation from the Ontario Participant that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario Participant that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses the Applicant's OM.

9. The Applicant will require Ontario Participants to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario Participant and subject to applicable laws, the Applicant will promptly restrict the Ontario Participant's access to the Applicant's OM if the Ontario Participant is no longer appropriately registered or exempt from those requirements.

Trading by Ontario Participants

10. The Applicant will not provide access to an Ontario Participant to trading in products other than the Ontario Market Instruments set out in Representation 4, without prior Commission approval.

11. If the Applicant provides Ontario Participants access to cleared instruments, the Applicant must submit, or cause to be submitted, all trades that are required to be cleared to a clearing agency or clearing house that is regulated as a clearing agency or clearing house by the applicable regulator.

Submission to Jurisdiction and Agent for Service

12. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.

13. The Applicant will maintain with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation

or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

Prompt Reporting

14. The Applicant will notify staff of the Commission promptly of:

(a) any authorization to carry on business granted by the MAS is revoked or suspended or made subject to terms or conditions on the Applicant's operations;

(b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;

(c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;

(d) the Applicant marketplace is not in compliance with this Order or with any applicable requirements, laws or regulations of the MAS where it is required to report such non-compliance to the MAS;

(e) any known investigations of, or disciplinary action against, the Applicant by the MAS or any other regulatory authority to which it is subject; and

(f) the Applicant makes any material change to the eligibility criteria for Ontario Participants.

Semi-Annual Reporting

15. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the following year for the second half), and at any time promptly upon the request of staff of the Commission:

(a) a current list of all Ontario Participants and whether the Ontario Participant is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading on the Applicant's OM as customers of participants (**Other Ontario Participants**);

(b) the legal entity identifier assigned to each Ontario Participant, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;

(c) a list of all Ontario Participants whom the Applicant has referred to the MAS, or, to the best of the Applicant's knowledge, whom have been disciplined by the MAS with respect to such Ontario Participants' activities on the Applicant's OM and the aggregate number of all participants referred to the MAS since the previous report by the Applicant;

(d) a list of all active investigations since the last report by the Applicant relating to Ontario Participants and the aggregate number of active investigations since the last report relating to all participants undertaken by the Applicant;

(e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant since the last report, together with the reasons for each such denial;

(f) for each product,

(i) the total trading volume and value originating from Ontario Participants, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario Participant or per Other Ontario Participant basis; and

(ii) the proportion of worldwide trading volume and value on the Applicant's OM conducted by Ontario Participants, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Participants and Other Ontario Participants;

provided in the required format.

Information Sharing

16. The Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

APPENDIX "I"

CRITERIA FOR EXEMPTION OF A FOREIGN EXCHANGE TRADING OTC DERIVATIVES FROM RECOGNITION AS AN EXCHANGE

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (**Foreign Regulator**).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

(a) effective oversight of the exchange,

(b) that business and regulatory decisions are in keeping with its public interest mandate,

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

  (i) appropriate representation of independent directors, and

  (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure

(i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

(d) The exchange does not

(i) permit unreasonable discrimination among participants, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

(e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

(a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.

(b) The Rules are not contrary to the public interest and are designed to

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.

8.2 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

(a) order entry,

(b) order routing,

(c) execution,

(d) trade reporting,

(e) trade comparison,

(f) data feeds,

(g) market surveillance,

(h) trade clearing, and

(i) financial reporting.

9.2 System Capability/Scalability

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

(a) makes reasonable current and future capacity estimates;

(b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

(c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;

(d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;

(e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;

(f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

(g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.3 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

11.2 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.2 Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.3 Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

PART 13 RECORD KEEPING

13.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 15 FEES

15.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

16.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

PART 17 IOSCO PRINCIPLES

17.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organization of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2022).

B.2.3 TrueContext Corporation

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).

May 29, 2024

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
TRUECONTEXT CORPORATION
(the Filer)

ORDER

Background

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

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

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

b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia and Alberta.

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.

"Marie-France Bourret"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2024/0299

B.2.4 Spirit Banner IV Capital Corp.

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).

May 30, 2024

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
SPIRIT BANNER IV CAPITAL CORP.
(the Filer)

ORDER

Background

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

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

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

b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia and Alberta.

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.

"Lina Creta"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2024/0294

B.2.5 Tryp Therapeutics Inc.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Securities Act s. 88 Cease to be a reporting issuer in BC – The securities of the issuer are beneficially owned by not more than 50 persons and are not traded through any exchange or market – The issuer is not an OTC reporting issuer; the securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders worldwide; no securities of the issuer are traded on a market in Canada or another country; the issuer is not in default of securities legislation

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

Applicable Legislative Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 88.
Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).

Citation: 2024 BCSECCOM 244

May 31, 2024

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
TRYP THERAPEUTICS 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 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 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; 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 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

¶ 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.

“Noreen Bent”
Chief, Legal Services, Corporate Finance
British Columbia Securities Commission

OSC File #: 2024/0305

B.2.6 Desjardins Securities Inc. – s. 80 of the CFA

Headnote

Applicant requested relief from the trade confirmation and statement of account requirements in sections 42, 43, 44 and 45 of the Commodity Futures Act where the Applicant acts as executing broker for "Give-up Transactions" in respect of trades in commodity futures contracts and commodity futures options, either directly or through an agent known as a direct market access partner, in accordance with an Institutional Client's instructions and the Institutional Client's clearing broker is responsible for clearing, settlement and/or custody – The services provided by the Applicant are limited to trade execution only – Relief granted with respect to Give-up Transactions for Institutional Clients provided the Applicant enters into a Give-Up Agreement with each Institutional Client and the Institutional Client's clearing broker.

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 42, 43, 44, 45 and 80.

June 4,2024

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

AND

IN THE MATTER OF
DESJARDINS SECURITIES INC.
(the Applicant)

ORDER
(Section 80 of the CFA)

UPON the application by the Applicant to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA granting relief from sections 42, 43, 44 and 45 of the CFA which contain the requirements to deliver certain confirmations and statements of trade to customers (the **Trade Reporting Requirements**) in respect of trades in commodity futures contracts and commodity futures options (**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 governed by the *Business Corporations Act* (Québec). It is an indirect, wholly-owned subsidiary of Fédération des caisses Desjardins du Québec. Its head office is located in Montreal, Québec.

2. The Applicant is registered as an investment dealer under the securities legislation of all provinces and territories of Canada, as a futures commission merchant under both the CFA and *The Commodity Futures Act* (Manitoba) and as a derivatives dealer under the *Derivatives Act* (Québec). It is also a member of the Canadian Investment Regulatory Organization (**CIRO**) and the TSX Venture Exchange, an approved participant of the Montréal Exchange (**MX**) and a participating organization of the Toronto Stock Exchange.

3. The Applicant acts as an executing broker for give-up transactions that involve the purchase and sale of Futures Contracts that are listed on one or more domestic or foreign commodity futures and derivatives exchanges.

4. Give-up transactions are conducted by institutional investors, each of which is an "institutional client" within the meaning of Rule 1200 of CIRO's Investment Dealer and Partially Consolidated Rules (the **Institutional Client**) that has an existing relationship as a client with a clearing broker but wishes to use the trade execution services of one or more executing brokers for the purpose of executing trades on one or more markets. Under these circumstances, the executing broker executes trades in accordance with the Institutional Client's instructions and then "gives up" the trades to the clearing broker for clearing, settlement and/or custody (**Give-up Transaction**).

5. An Institutional Client in a Give-up Transaction is a client of the clearing broker and the service provided by the executing broker to such Institutional Client is limited to trade execution. The clearing broker maintains an account for the Institutional Client 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 Client. The Institutional Client does not sign account documentation with the executing broker and the executing broker does not receive any money, securities, margin or

collateral from the client. The Institutional Client does, however, enter into an agreement with the executing broker and the clearing broker that governs their give-up transaction relationship (a **Give-Up Agreement**).

6. In connection with Give-up Transactions pertaining to Futures Contracts traded on Canadian commodity futures exchanges, including the MX, the Applicant acts as an executing broker for such transactions and gives up the trades to the Institutional Client's clearing broker for clearing, settlement and/or custody. In connection with Give-up Transactions pertaining to Futures Contracts traded on foreign commodity futures exchanges of which the Applicant is not a member (and therefore not in a position to execute trades itself), and where the Applicant is permitted under the rules of the relevant foreign commodity futures exchange to provide access to Futures Contracts execution by forwarding client orders, either directly or through an agent, to a broker known as a direct market access partner (the **DMAP**) for the relevant foreign commodity futures exchange (**Futures Execution Access Services**), a DMAP will execute the trades in accordance with the Institutional Client's instructions and give up the trades to the Institutional Client's clearing broker for clearing, settlement and/or custody.

7. 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 in respect of execution only Institutional Clients in Give-up Transactions. Such Account Services remain the responsibility of those execution only Institutional Clients' clearing brokers. The Applicant does, however, capture each Give-up Transaction that it executes in its electronic blotter or that it forwards to a DMAP in providing Futures Execution Access Services to an Institutional Client. Give-up Transactions effected through the electronic platforms used by the Applicant and the DMAP are in most cases automatically allocated to clearing brokers as trades executed under a Give-Up Agreement, and a manual daily control is also conducted by the Applicant and the DMAP to identify the Futures Contract positions held by the Applicant or the DMAP, as applicable, that have not been allocated to any Institutional Clients' clearing brokers. Each such leftover position is then investigated by the Applicant (and the DMAP, as applicable) and is either:

   - sent to an Institutional Client's clearing broker as a trade that was executed under a Give-Up Agreement; or
   - upon receipt of new instructions from the Institutional Client, and supporting documentation to open a brokerage account if the Institutional Client does not have an account with the Applicant or the DMAP, as applicable, allocated to that Institutional Client's account.

8. For each execution only Institutional Client that is a party to a Give-Up Agreement, the Applicant prepares a monthly or trade-by-trade invoice that provides details of all Give-up Transactions that the Applicant or the DMAP, as applicable, conducted for the Institutional Client during the month and the amount of commission owing to the Applicant and/or, indirectly, to the DMAP, as applicable, for such trade execution services or Futures Execution Access Services. The Applicant delivers the monthly invoice to the clearing broker which reconciles the trades described in the invoice with its own records and then pays the Applicant and/or the DMAP the amount owing to it pursuant to the invoice (this function may also be performed by the FIA TECH ATLANTIS electronic platform, which connect futures exchange, execution brokers and clearing agents together). Payment of the invoice therefore serves as evidence of the fact that the Applicant's own internal records reconcile with those of the Institutional Client.

9. The clearing broker has the primary relationship with the Institutional Client and is contractually responsible for risk monitoring, overall trade monitoring as well as reporting trade confirmations and sending out monthly statements. The clearing broker is subject to trade confirmation requirements and statement of account requirement in respect of its Institutional Clients in Give-up Transactions.

10. Sections 42 and 45 of the CFA require a registered dealer that has acted as agent in connection with any trade in a Futures Contract to promptly deliver a prescribed form of written trade confirmation of the transaction to its client.

11. Section 43 of the CFA requires every registered dealer who has acted as an agent in connection with a liquidating trade in a commodity futures contract for a client to promptly deliver a prescribed form of the statement of purchase and sale to the client in addition to the trade confirmation that must be delivered in accordance with sections 42 and 45 of the CFA.

12. Section 44 of the CFA provides that so long as any unexpired and unexercised Futures Contract is outstanding in a client's account with a registered dealer, the registered dealer must deliver a prescribed form of monthly statement to the client.

13. The application of the Trade Reporting Requirements to the Applicant when it provides trade execution only services or Futures Execution Access Services in respect of Give-up Transactions would:

    a) be both duplicative and confusing because they would capture only some, not all, of the trading information that would be contained in the trade confirmations, statements of account and statements of purchase and sale that are delivered to the same Institutional Clients by their clearing brokers; and

b) not be required to establish an audit trail or to facilitate reconciliation of Give-up Transactions as between the Applicant and a clearing broker.

14. Subject to the matter to which this decision relates, the Applicant is not in default of securities, commodify futures or derivatives legislation in any jurisdiction of Canada.

15. Once the appropriate relief from CIRO is obtained, the Applicant will be in compliance with all CIRO requirements relating to the maintenance of records of executed transactions.

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

THIS ORDER of the Commission is that the Applicant is exempt from the requirements of sections 42, 43, 44 and 45 of the CFA provided that:

1. the Applicant remains registered as a futures commission merchant and a member of CIRO;

2. the Applicant provides trade execution services or Futures Execution Access Services in respect of Give-up Transactions only for Institutional Clients;

3. the Applicant enters into a Give-Up Agreement with each Institutional Client and their clearing broker; and

4. the clearing broker has agreed to provide the Institutional Client with written trade confirmations and statements of account that include information for each Give-Up Transaction subject to this order.

“Felicia Tedesco”
Deputy Director, Registration, Inspections and Examinations
Ontario Securities Commission

OSC File #: 2024/0154

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B.3
Reasons and Decisions

B.3.1 AGF Investments Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief requested from the 5% of net asset value threshold on cash borrowing in subparagraph 2.6(1)(a)(i) of NI 81-102 to allow mutual funds managed by 11 investment fund managers to borrow cash on a temporary basis in an amount that does not exceed 10% of the mutual fund's net asset value at the time of borrowing to (i) accommodate requests for the redemption of securities of the fund while the fund settles portfolio transactions initiated to satisfy such redemption requests and (ii) permit the fund to settle a purchase of portfolio securities that is executed in anticipation of the settlement of an investor's purchase of securities of the fund – Relief requested in connection with the implementation of T+1 settlement for securities traded in North American markets as at May 27, 2024, while certain foreign markets will continue to maintain T+2 settlement – Funds may experience mismatch between the settlement timing of trades in fund securities and the settlement timing of trades in portfolio securities, which may give rise to a temporary funding gap in the settlement of fund redemptions and the purchase of portfolio security purchases – Relief granted subject to various conditions, including that the outstanding amount of all borrowings of a fund does not exceed 10% of the net asset value of the fund at the time of borrowing – Decision expires in three years – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.6(1)(a)(i) and 19.1.

May 24, 2024

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
AGF INVESTMENTS INC.,
ATB INVESTMENT MANAGEMENT INC.,
CAPITAL INTERNATIONAL ASSET MANAGEMENT (CANADA), INC.,
CI INVESTMENTS INC.,
FIDELITY INVESTMENTS CANADA ULC,
FRANKLIN TEMPLETON INVESTMENTS CORP.,
INVESCO CANADA LTD.,
MACKENZIE FINANCIAL CORPORATION,
MANULIFE INVESTMENT MANAGEMENT LIMITED,
SLGI ASSET MANAGEMENT INC.,
TD ASSET MANAGEMENT INC.
(each a Filer, and collectively, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from each Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting all current and future mutual funds that are not alternative mutual funds or non-redeemable investment funds and that (i) are, or will be, reporting issuers and (ii) are, or will be, managed by

the Filers or by affiliates or successors of the Filers (collectively, the **Funds** and individually, a **Fund**) from the Borrowing Limit (as defined below) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) to allow each Fund to borrow cash on a temporary basis in an amount that does not exceed 10% of its net asset value at the time of borrowing to:

(a) accommodate requests for the redemption of securities of the Fund (each a **Fund Redemption**) while the Fund settles portfolio transactions initiated to satisfy such redemption requests (the **Redemption Relief**); and

(b) permit the Fund to settle a purchase of Portfolio Securities (as such term is defined below) (each a **Portfolio Security Purchase**) that is executed in anticipation of the settlement of an investor's purchase of securities of the Fund (each a **Fund Purchase** and such relief, the **Purchase Relief** and together with the Redemption Relief, the **Exemption Sought**).

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

(a) the Ontario Securities Commission (the **OSC**) is the principal regulator for this application, and

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

Borrowing Limit means the five percent (5%) of net asset value threshold on cash borrowing set forth in subparagraph 2.6(1)(a)(i) of NI 81-102.

Fund Securities means the shares or units of a Fund.

Portfolio Securities means the securities held or purchased by a Fund.

Pricing Date means the date on which the net asset value per Fund Security is calculated for the purpose of determining the price at which the Fund Security is to be issued or redeemed, as applicable.

T+1 Securities means securities the trades in respect of which customarily settle on the first business day after a Trade Date.

T+2 Securities means securities the trades in respect of which customarily settle on a day that is later than the first business day after a Trade Date.

Trade Date means the date upon which pricing for a trade in a security is determined.

Representations

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

The Filers and the Funds

1. The head office location of each Filer other than ATB Investment Management Inc. (**ATBIM**) is in Ontario. The head office location of ATBIM is in Alberta. The Alberta Securities Commission has given notice pursuant to section 4.6 of MI 11-102 that the OSC is the principal regulator for the application as it relates to ATBIM.

2. The Jurisdictions in which each Filer is registered and the specific categories of registration for each Filer are provided in Schedule "A".

3. Each Fund is, or will be, managed by a Filer or by an affiliate or a successor of the Filer.

4. The Funds are, or will be, mutual funds subject to NI 81-102 that are not alternative mutual funds or non-redeemable investment funds and are, or will be, reporting issuers in one or more of the Jurisdictions.

5. None of the Filers nor any of the Funds existing as at the date hereof are in default of any of the requirements of securities legislation of the Jurisdictions.

Background on Settlement Requirements for North American Securities

6. On December 1, 2021, the securities industry in the United States, represented by the Securities Industry and Financial Markets Association, the Investment Company Institute, and The Depository Trust & Clearing Corporation, published a report targeting the first half of 2024 to shorten the United States securities settlement cycle from the second business day after the Trade Date, commonly referred to as "**T+2**", to one business day after the Trade Date, commonly referred to as "**T+1**". On the same day, the Canadian Capital Markets Association (the **CCMA**) announced its plans to facilitate shortening Canada's standard securities settlement cycle from T+2 to T+1.

7. The Canadian Securities Administrators (the **CSA**) subsequently published CSA Staff Notice 24-318 *Preparing for the Implementation of T+1 Settlement*, which outlined their position on the benefits of shorter settlement cycles and highlighted the need for close collaboration and coordination across the Canadian securities industry to transition to T+1 settlement in alignment with U.S. markets.

8. On February 15, 2023, the U.S. Securities and Exchange Commission (the **SEC**) formally announced that the move in the United States to T+1 settlement for transactions involving various securities, including equities and corporate debt, would take effect on May 28, 2024.

9. On March 14, 2023, in alignment with the transition in U.S. markets (but taking into account that, unlike the United States, Canada's financial markets are open on Monday, May 27, 2024), the CCMA formally announced May 27, 2024 as the implementation date for the move to T+1 settlement for transactions involving various securities, including equities and corporate debt (the **Implementation Date**).

10. Despite this adoption of T+1 settlement for North American securities, many foreign markets maintain a T+2 or greater settlement cycle, including, but not limited to, the European Union, the United Kingdom, Japan, Brazil, Australia, and New Zealand.

Background on Settlement Requirements for NI 81-102 Funds

11. As at the date of this decision, Section 9.4 of NI 81-102 requires payment of the issue price of Fund Securities to which a purchase order pertains to be made to the Fund on or before the second business day after the Pricing Date of the Fund Securities, and if the payment of the issue price is not received by the Fund on or before the second business day after the Pricing Date of the Fund Securities, the Fund will be required to redeem the Fund Securities to which the purchase order pertains as if it had received an order for the redemption of the Fund Securities on the third business day after the Pricing Date.

12. Additionally, Section 10.4 of NI 81-102 requires a Fund to pay the redemption proceeds for Fund Securities that are the subject of a redemption order within two business days after the Pricing Date (subject to satisfaction of all required redemption procedures established by the Fund in accordance with Section 10.1 of NI 81-102).

13. Despite the change from T+2 to T+1 settlement for North American securities, NI 81-102 still permits purchases and redemptions of Fund Securities to settle on T+2. Following the Implementation Date, Funds may elect to settle purchases and redemptions of Fund Securities on T+1 on a voluntary basis.

Mismatches in Settlement Periods

14. Following the Implementation Date, certain Funds will settle trades in Fund Securities on the first business day after a Trade Date (each a **T+1 Fund**). As only a limited number of Funds invest purely in T+1 Securities, many T+1 Funds will hold some T+2 Securities, resulting in a mismatch between the settlement timing of trades in Fund Securities and trades in Portfolio Securities. Such mismatch may lead to liquidity constraints in funding Fund Redemptions, giving rise to the need for the Exemption Sought.

15. Following the Implementation Date, certain Funds will settle trades in Fund Securities on a day that is later than the first business day after a Trade Date (each a **T+2 Fund**). As only a limited number of Funds invest purely in T+2 Securities, many T+2 Funds will hold some T+1 Securities, resulting in a mismatch between the settlement timing of trades in Fund Securities and trades in Portfolio Securities. Such mismatch may lead to liquidity constraints in funding Portfolio Security Purchases, giving rise to the need for the Exemption Sought.

Reasons Requiring the Redemption Relief

16. Following the Implementation Date, certain Filers expect to move certain Funds to T+1 settlement.

17. T+1 Funds may have a portion of their assets invested in T+2 Securities. To fund redemptions, a T+1 Fund will effect an orderly liquidation of Portfolio Securities in order to accommodate redemption requests. However, liquidation of T+2 Securities effected on the Trade Date of the Fund Redemption will only settle after the Fund is required to settle the Fund

Redemption in cash. This arises not only because T+2 Securities settle one business day following the Fund Redemption's Trade Date but also because T+2 Securities are generally in jurisdictions where the stock exchanges are not open for trading at 4:00pm ET, which is generally the cut-off time for Fund Redemptions (the **Cut Off Time**) or the markets in which the T+2 Securities trade may be closed due to public holidays. As such, Portfolio Securities may only be sold one business day after the Fund Redemption's Trade Date and would thus only settle three business days (or more) after the Fund Redemption's Trade Date. A T+1 Fund that holds some T+2 Securities may therefore be required to pay the redemption price for the Fund Securities that have been redeemed at a time when the Fund has insufficient cash to do so.

18. T+1 Funds may also encounter situations in which a liquidation of T+1 Securities will settle after the requirement to settle a Fund Redemption in cash, resulting in a cash shortfall. If Fund Redemption requests are placed at or shortly before the Cut-Off Time, a T+1 Fund may be in an unanticipated net redemption position and may not be able to effect a liquidation of sufficient T+1 Securities for the purposes of satisfying such Fund Redemptions until the following business day. In such circumstances, the Fund will be obligated to settle the Fund Redemption before it receives cash proceeds from selling its T+1 Securities. Additionally, T+1 Funds may encounter liquidity constraints when the Fund Redemptions are placed on days where the T+1 Securities are:

    (a) not trading due to public holidays or other reasons, as any such liquidation of the T+1 Securities will only settle after the Fund is required to settle the Fund Redemption in cash; or

    (b) trading but the settlement date for the T+1 Securities is delayed as the following day is a public holiday in the jurisdiction where the T+1 Securities trade but it is not a public holiday in Canada. In such situations, the T+1 Securities are settling on a T+2 basis from the Fund's perspective and the Fund is required to settle the Fund Redemption in cash prior to receiving cash from the sale of the T+1 Securities.

19. A Fund is permitted to borrow cash as a temporary measure to accommodate requests for Fund Redemptions while the Fund effects an orderly liquidation of portfolio assets, provided that all borrowing by the Fund does not exceed the Borrowing Limit. Borrowing beyond the Borrowing Limit may be necessary for the purpose of settling Fund Redemptions in the scenarios set out above.

20. While liquidity management practices other than cash borrowing may be utilized by the Filers to manage the liquidity constraint scenarios set out above, the Filers submit that permitting a T+1 Fund to borrow cash beyond the Borrowing Limit in an amount not exceeding 10% of the Fund's net asset value at the time of borrowing and on a temporary basis while the Fund awaits receipt of proceeds from the sale of Portfolio Securities (**Fund Redemption Settlement Gap Funding**) would be an approach that is more in line with the best interests of the Fund and its investors than such other liquidity management practices, as further described below:

    (a) **Suspending Redemptions:** A Fund may request permission from the Principal Regulator to suspend Fund Redemptions if it is not able to accommodate redemption requests. However, the Filers consider suspending Fund Redemptions to be a practice of last resort. From a practical perspective, this makes little sense given that this is a temporary issue and the above activities would need to be carried out again when the Portfolio Securities have settled, as Fund Redemptions would no longer be suspended. The Filers do not believe that this is the intent of the suspension mechanism. Further, the suspension of redemptions is not in investors' best interests, as it would deny them access to their investments for a number of days and may result in borrowing and/or opportunity costs for investors not expecting the suspension. Borrowing in excess of the Borrowing Limit to bridge the settlement of Portfolio Securities sale transactions is a temporary measure that the Filers submit is an approach more in line with the Fund and investors' best interests than a suspension of Fund Redemptions.

    (b) **Disproportionately Selling Off Faster-Settling Portfolio Securities:** Disproportionately selling off faster settling Portfolio Securities may give a Fund the ability to satisfy the applicable Fund Redemptions. However, a Fund's investment restrictions may prevent a Fund from pursuing these trades when the result would produce weighting imbalances that are prohibited by the Fund's investment guidelines. Additionally, this strategy may not always be in the best interest of the Fund and the remaining investors in the Fund if the portfolio manager's outlook favours these faster-settling securities that are being liquidated because ultimately the Fund will have to repurchase these securities once the slower-settling securities have been sold and settled, thereby incurring trading costs which would be borne solely by remaining investors. The Redemption Relief will allow the Filers to seek to manage a Fund's portfolio realisations to fund redemptions in a manner that is fairer to the Fund's remaining investors. The Redemption Relief will allow the Filers more time, if required, to sell a variety of portfolio assets to keep the Fund in line with the portfolio manager's intended investment allocation.

    (c) **Short Settlement:** A Fund may request that the counterparty to its Portfolio Securities sale transaction "short settle" the settlement of Portfolio Securities so that the Fund receives the cash for such sale earlier than is customary. While "short settlement" arrangements may be helpful, there are issues associated with short settlement:

(i) Short settlement is not always available for any given trade (including for trades in T+1 Securities, since short settlement would require settlement *on* the Trade Date, which is uncommon);

(ii) Not all dealers are willing to offer short settlement;

(iii) Short settlement may result in increased trading commissions; and

(iv) Short settlement potentially creates operational risk.

The Filers submit that "short settlement" arrangements are not always in the best interest of a Fund and in many instances, cash borrowing would be a preferred strategy.

(d) **Maintenance of Cash:** A Fund may hold cash as a method to manage liquidity needs of the Fund (a **Liquidity Reserve**) or as a portfolio management strategy. The Liquidity Reserve consists of freely available cash that is not being held by the Fund for the purpose of seeking to meet its investment objectives or as part of its investment strategies. However, a Fund typically seeks to manage the Liquidity Reserve tightly so as to avoid exposing investors to cash drag. After the Implementation Date, without excess borrowing capacity, the Filers expect that certain T+1 Funds may be required to increase their Liquidity Reserve. As the Liquidity Reserve may or may not be used and it results in cash drag, the Filers submit that this approach is not in the best interest of Fund investors. Cash borrowing may permit the Filers to accommodate cash needs with more precision to reduce unnecessary cash drag.

Reasons Requiring the Purchase Relief

21. When a Fund is in significant net subscriptions on a Trade Date, the Fund may execute Portfolio Security Purchases in an amount that is equal to or less than the anticipated value of the net subscriptions to match the Trade Date of Portfolio Security Purchase with the Trade Date of the Fund Purchase (a **Trade Date Matching**). Certain Funds may engage in this practice in order to seek to reduce cash drag and increase the investment exposure for Fund investors.

22. The need to borrow money for Trade Date Matching arises when a Fund Purchase settles after the settlement date of the Portfolio Security Purchase. Effective as of the Implementation Date, this will occur when T+2 Funds invest a portion of their assets in T+1 Securities.

23. While a Fund may stagger Portfolio Security Purchases to manage this so that the Fund only executes a related Portfolio Security Purchase after a Fund Purchase has settled, this delay in investing may result in cash drag and accordingly, certain Funds may not wish to engage in staggering.

24. The Filers submit that permitting a T+2 Fund to borrow cash beyond the Borrowing Limit in an amount not exceeding 10% of the Fund's net asset value at the time of borrowing and on a temporary basis to settle the purchase of T+1 Securities (**Portfolio Security Purchases Settlement Gap Funding**, together with the Fund Redemption Settlement Gap Funding, the **Settlement Gap Funding**) would be an approach that is more in line with the best interests of the Fund and its investors than staggering Portfolio Security Purchases.

Risk Management

25. The Settlement Gap Funding will not create leverage in the Funds because it will not be used to purchase additional investments for the Funds.

26. Each Fund will borrow cash beyond the Borrowing Limit in reliance on this decision solely for Settlement Gap Funding purposes and will not do so unless the applicable Filer has determined that it would be in the best interests of the Fund to use the exemption from the Borrowing Limit.

27. Each Filer has written liquidity risk management policies and procedures that address the Funds' key liquidity risks, including a description of how the risks are identified, monitored and measured, and the techniques used to manage and mitigate the risks.

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 Decision Makers under the Legislation is that the Exemption Sought is granted, provided that:

1. at the time a Fund relies on the relief under this decision, the applicable Filer has written policies and procedures for relying on the relief that require the Filer to:

(a) implement controls on decision-making on borrowing above the Borrowing Limit and on the monitoring of such decision-making; and

(b) monitor levels of Fund Redemptions, Fund Purchases and the cash balance of each Fund;

2. a Fund may only borrow cash in excess of the Borrowing Limit if all of the following conditions are satisfied:

(a) the Fund has used all of its available Liquidity Reserve;

(b) the outstanding amount of all borrowings of the Fund do not exceed 10% of the net asset value of the Fund at the time of borrowing;

(c) in the case of Fund Redemption Settlement Gap Funding, the amount of cash borrowed by the Fund will not exceed the amount of cash that the Fund will receive in respect of the sale of Portfolio Securities;

(d) in the case of Portfolio Security Purchases Settlement Gap Funding, the amount of cash borrowed by the Fund will not exceed the amount of cash that the Fund will receive from the investor in a Fund Purchase;

3. each Fund discloses the following in each prospectus filed after the date of this decision in connection with the continuous distribution of Fund Securities:

(a) the terms of this decision;

(b) the maximum percentage of assets of the Fund that the borrowing may represent; and

(c) the Fund's intended use of the amounts borrowed for Settlement Gap Funding; and

4. this decision expires on a date that is three (3) years after the date of this decision.

"Darren McKall"
Manager, Investment Management Division
Ontario Securities Commission

Application File #: 2024/0036; SEDAR+ File #: 6074876
2024/0037; SEDAR+ File #: 6074922
2024/0038; SEDAR+ File #: 6074915
2024/0039; SEDAR+ File #: 6074901
2024/0040; SEDAR+ File #: 6074937
2024/0041; SEDAR+ File #: 6074912
2024/0042; SEDAR+ File #: 6074930
2024/0049; SEDAR+ File #: 6074927
2024/0056; SEDAR+ File #: 6074906
2024/0234; SEDAR+ File #: 6116130
2024/0262; SEDAR+ File #: 6119820

Schedule "A"

Filers

	Name of Fund Manager (Filers)	Category of Registration	Jurisdiction of Registration
1.	AGF Investments Inc.	Mutual Fund Dealer	British Columbia, Ontario, Quebec
		Exempt Market Dealer	Alberta, British Columbia, Manitoba, Ontario, Quebec, Saskatchewan
		Portfolio Manager	All Provinces and Territories
		Commodity Trading Manager	Ontario
		Investment Fund Manager	Alberta, British Columbia, Newfoundland and Labrador, Ontario, Quebec
2.	Invesco Canada Ltd.	Mutual Fund Dealer	Alberta, British Columbia, Nova Scotia, Ontario, Prince Edward Island, Quebec
		Exempt Market Dealer	All Provinces
		Portfolio Manager	All Provinces
		Commodity Trading Manager	Ontario
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec
3.	CI Investments Inc.	Exempt Market Dealer	All Provinces and Territories
		Portfolio Manager	All Provinces and Territories
		Commodity Trading Manager	Ontario
		Commodity Trading Counsel	Ontario
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec
4.	Fidelity Investments Canada ULC	Mutual Fund Dealer	All Provinces and Territories
		Exempt Market Dealer	All Provinces and Territories
		Portfolio Manager	All Provinces and Territories
		Commodity Trading Manager	Ontario
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec
5.	Franklin Templeton Investments Corp.	Mutual Fund Dealer	Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan, Yukon
		Exempt Market Dealer	Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan, Yukon
		Portfolio Manager	Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan, Yukon
		Commodity Trading Manager	Ontario
		Investment Fund Manager	Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Quebec

	Name of Fund Manager (Filers)	Category of Registration	Jurisdiction of Registration
6.	SLGI Asset Management Inc.	Mutual Fund Dealer	Ontario
		Portfolio Manager	Ontario
		Commodity Trading Manager	Ontario
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec
7.	Manulife Investment Management Limited	Portfolio Manager	All Provinces and Territories
		Commodity Trading Manager	Ontario
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec
		Derivatives Portfolio Manager	Quebec
8.	Mackenzie Financial Corporation	Exempt Market Dealer	All Provinces
		Portfolio Manager	All Provinces
		Commodity Trading Manager	Ontario
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec
		Adviser	Manitoba
9.	TD Asset Management Inc.	Exempt Market Dealer	All Provinces
		Portfolio Manager	All Provinces
		Commodity Trading Manager	Quebec
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec, Saskatchewan
		Derivatives Portfolio Manager	Ontario
10.	ATB Investment Management Inc.	Portfolio Manager	Ontario, Alberta, British Columbia, Manitoba, Nova Scotia, Saskatchewan
		Investment Fund Manager	Ontario, Alberta, Manitoba, Newfoundland and Labrador, Nova Scotia, Saskatchewan
11.	Capital International Asset Management (Canada), Inc.	Exempt Market Dealer	All Provinces
		Portfolio Manager	All Provinces
		Investment Fund Manager	Ontario, Newfoundland and Labrador, Quebec

B.3.2 Citigroup Global Markets Inc.

Headnote

U.S. registered broker-dealer exempted from the dealer registration requirement in subsection 25(1) of the Act to permit its provision of certain prime brokerage services (which do not include the execution of trades) – Exemption limited to trades in "Canadian securities" (which the decision defines as a security that is not a "foreign security" as that term is defined in subsection 8.18(1) of NI 31-103) for certain (institutional) permitted clients – Exemption is subject to a 5-year sunset clause.

Applicable Legislative Provisions

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 19, 19(1), 19(2), 25(1), 74 (1).

Instruments Cited

Multilateral Instrument 11-102 Passport System, ss. 4.4(c), 4.7, 4.7(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 1.1, 8.5, 8.18, 8.18, 8.21, Form 31-103F1 Calculation of Excess Working Capital.
National Instrument 81-102 Investment Funds, Part 6.
Ontario Securities Commission Rule 13-502 Fees.

May 28, 2024

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
CITIGROUP GLOBAL MARKETS INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the **Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer from the dealer registration requirement under section 25(1) of the *Securities Act* (Ontario) (the **Act**) in respect of Prime Services (as defined below) relating to securities of Canadian issuers and that are provided in Canada to Institutional Permitted Clients (as defined below) (the **Exemption Sought**).

The principal regulator granted similar relief to the Filer in a decision dated May 28, 2019, subject to a five-year sunset clause (the **Previous Decision**). The Previous Decision will expire on May 28, 2024 (the **Termination Date**).

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

(a) the Ontario Securities Commission (the **OSC**) is the principal regulator for this Application, and

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada in which the Filer relies on the exemption found in section 8.18 [*International dealer*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) other than the province of Alberta (the **Passport Jurisdictions** and together with the Jurisdiction, the **Jurisdictions**).

Interpretation

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

For the purposes of this decision, the following term has the following meaning:

"**Institutional Permitted Client**" means a "permitted client" as defined in section 1.1 of NI 31-103, except for: (a) an individual, (b) a person or company acting on behalf of a managed account of an individual, (c) a person or company referred to in paragraph (p) of that definition, unless that person or company qualifies as an Institutional Permitted Client under another paragraph of that definition, or (d) a person or company referred to in paragraph (q) of that definition unless that person or company has net assets of at least $100 million as shown on its most recently prepared financial statements or qualifies as an Institutional Permitted Client under another paragraph of that definition.

Representations

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

1. The Filer is a corporation formed under the laws of the State of New York. The Filer's head office is located at 388 Greenwich Street, New York, New York, 10013, United States of America (the **U.S.**). The Filer is a wholly owned indirect subsidiary of Citigroup Inc.

2. The Filer is registered as a broker-dealer with the U.S. Securities and Exchange Commission (**SEC**) and a member of the U.S. Financial Industry Regulatory Authority (**FINRA**), as well as a registered futures commission merchant (**FCM**) with the U.S. Commodity Futures Trading Commission (**CFTC**), and a member of the U.S. National Futures Association (**NFA**).

3. The Filer is a member of a number of major U.S. securities exchanges, including the American Stock Exchange, the Chicago Stock Exchange, the New York Stock Exchange, and the Philadelphia Stock Exchange. The Filer is a Foreign Approved Participant of the Montreal Exchange and a Registered Futures Commission Merchant of ICE Futures Canada, Inc. The Filer is also a member of the CME Group (including the Chicago Board of Trade), ICE Futures U.S., Inc., the New York Mercantile Exchange (including COMEX) and other principal U.S. commodity exchanges, and trades through affiliated or unaffiliated member firms on certain other exchanges, including exchanges in Canada, France, Italy, Japan, Singapore, Spain, Taiwan, Mexico, Korea and the United Kingdom.

4. The Filer is a full service U.S. broker-dealer that provides a variety of capital raising, investment banking, market making, brokerage, and advisory services, including fixed income and equity sales and research, commodities trading, foreign exchange sales, emerging markets activities, securities lending and derivatives dealing for government, corporate and financial institutions.

5. The Filer provides Prime Services in accordance with the Previous Decision.

6. The Filer has applied for the Exemption Sought in order to continue to provide Prime Services in Canada with respect to securities of Canadian issuers to Prime Services Clients that are Institutional Permitted Clients after the Termination Date.

7. "Prime Services" provided by the Filer principally consist of the following: (a) settlement, clearing and custody of trades; (b) financing of long inventory; (c) securities borrowing and/or lending pursuant to a securities lending agreement or delivering securities on behalf of a client pursuant to a margin agreement, in each case, to facilitate client short sales; and (d) reporting of positions, margin and other balances and activity. For greater clarity, Prime Services do not include execution of trades in securities.

8. The Filer provides Prime Services in the Jurisdictions to Institutional Permitted Clients (the **Prime Services Clients**) in respect of securities of Canadian and non-Canadian issuers.

9. In the case of a Prime Services Client that is an investment fund subject to Part 6 of National Instrument 81-102 *Investment Funds* (**NI 81-102**), the custodianship requirements in Part 6 of NI 81-102 would apply and the Filer would provide Prime Services to an investment fund in compliance with the securities laws applicable to the investment fund, including Part 6 of NI 81-102 and, in the case of a Prime Services Client that is a registrant, the custody requirements set out in NI 31-103 would apply.

10. Prime Services Clients seek Prime Services from the Filer in order to separate the execution of a trade from the clearing, settlement, custody and financing of a trade. This allows the Prime Services Client to use many executing brokers, without maintaining an active, ongoing custody account with each executing broker. It also allows the Prime Services Client to consolidate settlement, clearing, custody and financing of securities in an account with the Filer.

11. The Filer's Prime Services Clients directly select their executing brokers. The Filer does not require its Prime Services Clients to use specific executing brokers through which Prime Services Clients must execute trades. Prime Services Clients send trade orders to the executing broker who carries out the trade. The executing broker will be an appropriately registered dealer or a person or company relying on an exemption from the dealer registration requirement that permits such executing broker to execute the trade for Prime Services Clients.

12. The Filer provides the Prime Services after the execution of the trade, but any commitment to provide financing or to lend or borrow securities in relation to a trade may be made prior to the execution of the trade. The executing broker will communicate the trade details to a Prime Services Client and the Filer or the Filer's clearing agent, as applicable. A Prime Services Client will also communicate the trade details to the Filer. For trades executed on a Canadian marketplace, the Filer will typically need to clear and settle the trades through a participant of the Canadian depository, clearing and settlement hub, CDS Clearing and Depository Services Inc.

13. The Filer exchanges money or securities and holds the money or securities in an account for each Prime Services Client. If the Filer is clearing and settling the trade through a clearing agent, the Filer's clearing agent exchanges money or securities and holds the money or securities in an omnibus account for the Filer, who in turn maintains a record of the position held for the Prime Services Client on its books and records.

14. On or following settlement, the Filer provides the other Prime Services as set out in paragraph 7.

15. The Filer enters into written agreements with all of its Prime Services Clients for the provision of Prime Services.

16. The Filer currently relies on the "international dealer exemption" under section 8.18 [*International dealer*] of NI 31-103 in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan, and Yukon.

17. The Filer is not registered under the securities legislation of any of the jurisdictions of Canada, is in the business of trading in securities and, in the absence of the Exemption Sought, cannot provide the full range of Prime Services in the Jurisdictions in respect of securities of Canadian issuers without registration, except as permitted under section 8.5 [*Trades through or to a registered dealer*], under the exemptions found in paragraphs (a), (b) and (f) of subsection 8.18(2) [*International dealer*], or under section 8.21 [*Specified debt*] of NI 31-103.

18. The Filer is subject to regulatory capital requirements under the U.S. *Securities Exchange Act of 1934* (the **1934 Act**), specifically SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers* (**SEC Rule 15c3-1**) and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers* (**SEC Rule 17a-5**). The Filer has been approved by the SEC pursuant to SEC Rule 15c3-1 to use the alternative method of computing net capital contained in Appendix E to SEC Rule 15c3-1, and therefore files such supplemental and alternative reports as may be prescribed by the SEC. The Alternative Net Capital (**ANC**) method provides large broker-dealers meeting specified criteria, such as the Filer, with an alternative to use mathematical models such as the value at risk model to calculate capital requirements for market and derivatives related credit risk. The Filer, which uses the ANC method, must document and implement a comprehensive internal risk management system which addresses market, credit, liquidity, legal and operational risk at the firm.

19. SEC Rule 15c3-1 requires that the Filer account for any guarantee of debt of a third party in calculating its excess net capital when a loss is probable and the amount can be reasonably estimated. Accordingly, the Filer will, in the event that it provides a guarantee of any debt of a third party, take a deduction from net capital when both of the preceding conditions exist. The Filer does not guarantee the debt of any third party.

20. SEC Rule 15c3-1 is designed to provide protections that are substantially similar to the protections provided by the capital formula requirements and specifically risk adjusted capital to which dealer members of the Canadian Investment Regulatory Organization (**CIRO**) are subject, and the Filer is in compliance with SEC Rule 15c3-1 and is in compliance in all material respects with SEC Rule 17a-5. If the Filer's net capital declines below the minimum amount required, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 17a-11 *Notification Provisions for Brokers and Dealers* (**SEC Rule 17a-11**). The SEC and FINRA have the responsibility to provide oversight over the Filer's compliance with SEC Rule 15c3-1 and SEC Rule 17a-5.

21. The Filer is required to prepare and file a financial report, which includes Form X-17a-5 (the **FOCUS Report**), which is the financial and operational report containing a net capital calculation, and a compliance report annually with the SEC and FINRA pursuant to SEC Rule 17a-5(d). The FOCUS Report provides a more comprehensive description of the business activities of the Filer, and more accurately reflects those activities, including client lending activity, than would be provided by Form 31-103F1 *Calculation of Excess Working Capital* (Form 31-103F1). The net capital requirements computed using methods prescribed by SEC Rule 15c3-1 are based on all assets and liabilities on the books and records of a broker-dealer whereas Form 31-103F1 is a calculation of excess working capital, which is a computation based primarily on the current assets and current liabilities on the books and records of the dealer. The Filer is up-to-date in its submissions of annual reports under SEC Rule 17a-5(d), including the FOCUS Report.

22. The Filer is subject to regulations of the Board of Governors of the U.S. Federal Reserve Board (**FRB**), the SEC and FINRA regarding the lending of money, extension of credit and provision of margin to clients (the **U.S. Margin Regulations**) that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of CIRO are subject. In particular, the Filer is subject to the margin requirements imposed by the FRB, including Regulation T and under applicable SEC rules and under FINRA Rule 4210. The Filer is in compliance in all material respects with applicable U.S. Margin Regulations.

23. The Filer holds customer assets in accordance with Rule 15c3-3 of the 1934 Act, as amended (**SEC Rule 15c3-3**). SEC Rule 15c3-3 requires the Filer to segregate and keep segregated all "fully-paid securities" and "excess margin securities" (as such terms are defined in SEC Rule 15c3-3) of its customers from its proprietary assets. In addition to the segregation of customers' securities, SEC Rule 15c3-3 requires the Filer to deposit an amount of cash or qualified government securities determined in accordance with a reserve formula set forth in SEC Rule 15c3-3 in an account titled "Special Reserve Account for the Exclusive Benefit of Customers" of the Filer at separate banks and/or custodians. The combination of segregated securities and cash reserve are designed to ensure that the Filer has sufficient assets to cover all net equity claims of its customers and provide protections that are substantially similar to the protections provided by the requirements dealer members of CIRO are subject. If the Filer fails to make an appropriate deposit, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 15c3-3(i). The Filer is in material compliance with the possession and control requirements of SEC Rule 15c3-3.

24. The Filer is a member of the Securities Investors Protection Corporation (**SIPC**) and, subject to the eligibility criteria of SIPC, Prime Services Clients' assets held by the Filer are insured by SIPC against loss due to insolvency.

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

26. The Filer submits that the Exemption Sought would not be prejudicial to the public interest because:

    (a) the Filer is regulated as a broker-dealer under the securities legislation of the U.S. and is subject to the requirements listed in paragraphs 18 to 24;

    (b) the availability of and access to Prime Services is important to Canadian institutional investors who are active market participants;

    (c) the proposed client base of the Filer under the Exemption Sought will be limited to Institutional Permitted Clients;

    (d) the OSC has entered into a memorandum of understanding with the SEC regarding mutual assistance in the supervision and oversight of regulated entities that operate on a cross-border basis in the U.S. and Canada; and

    (e) the OSC has entered into a memorandum of understanding with FINRA to provide a formal basis for the exchange of regulatory information and investigative assistance.

27. The Filer is a "market participant" as defined under subsection 1(1) of the Act. As a market participant, among other requirements, the Filer is required to comply with the record keeping and provision of information provisions under section 19 of the Act, which include the requirement to keep such books, records and other documents as (a) are necessary for the proper recording of business transactions and financial affairs, and the transactions executed on behalf of others, (b) as may otherwise be required under Ontario securities law, (c) as may reasonably be required to demonstrate compliance with Ontario securities laws, and (d) as may be prescribed by the regulations for the purposes of detecting, identifying or mitigating systemic risks related to the capital markets, and to deliver such records to the OSC if required.

28. The Filer will not rely on subsection 4.7(1) of MI 11-102 to passport this decision into Alberta.

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 so long as the Filer:

    (a) has its head office or principal place of business in the U.S.;

    (b) is registered as a broker-dealer under the securities legislation of the U.S., which permits the Filer to provide the Prime Services in the U.S.;

    (c) is a member of FINRA;

(d) is a member of SIPC;

(e) is subject to requirements over regulatory capital, lending of money, extension of credit, provision of margin, financial reporting to the SEC and FINRA, and segregation and custody of assets which provide protections that are substantially similar to the protections provided by the rules to which dealer members of CIRO are subject;

(f) limits its provision of Prime Services in the Jurisdictions in respect of securities of Canadian issuers to Institutional Permitted Clients;

(g) does not execute trades in securities of Canadian issuers with or for Prime Services Clients, except as permitted under applicable Canadian securities laws;

(h) does not require its Prime Services Clients to use specific executing brokers through which Prime Services Clients must execute trades;

(i) submits the financial report and compliance report as described in SEC Rule 17a-5(d) to the OSC on an annual basis, at the same time such reports are filed with the SEC and FINRA;

(j) submits audited financial statements to the OSC on an annual basis, within 90 days of the Filer's financial year end;

(k) submits to the OSC immediately a copy of any notice filed under SEC Rule 17a-11 or under SEC Rule 15c3-3(i) with the SEC and FINRA;

(l) complies with the filing and fee payment requirements that would be applicable to the Filer if it were a registrant under OSC Rule 13-502 *Fees*, including, for clarity, participation fees based on its specified Ontario revenues attributable to capital markets activities conducted in reliance on the "international dealer exemption" under section 8.18 [International Dealer] of NI 31-103, if applicable, and capital markets activities conducted in reliance on the exemption in this Decision;

(m) files in an electronic and searchable format with the OSC such reports as to any or all of its trading activities in Canada as the OSC may, upon notice, require from time to time; and

(n) pays the increased compliance and case assessment costs of the principal regulator due to the Filer's location outside Ontario, including, as required, the reasonable cost of hiring a third party to perform a compliance review on behalf of the principal regulator.

This decision shall expire five years after the date hereof.

This decision may be amended by the OSC from time to time upon prior written notice to the Filer.

"Elizabeth King"
Deputy Director, Registration, Inspections & Examinations
Ontario Securities Commission

Application File #: 2024/0128

B.3.3 Virgo CX Inc.

Headnote

Application for time-limited relief from certain registrant obligations, prospectus requirement and trade reporting requirements – suitability relief to allow the Filer to distribute Crypto Contracts and operate a platform that facilitates the buying, selling, depositing, and withdrawing of crypto assets – relief granted subject to certain conditions set out in the decision, including investment limits, account appropriateness, disclosure and reporting requirements – relief is time-limited and will expire on January 31, 2025 – relief granted based on the particular facts and circumstances of the application with the objective of fostering capital raising by innovative businesses in Canada – decision should not be viewed as precedent for other filers in the jurisdictions of Canada.

Statute cited

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

Instrument, Rule or Policy cited

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 13.3.
OSC Rule 91-506 Derivatives: Product Determination, ss. 2 and 4.
OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Part 3.

May 30, 2024

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)
AND
ALBERTA,
BRITISH COLUMBIA,
MANITOBA,
NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR,
NORTHWEST TERRITORIES,
NOVA SCOTIA,
NUNAVUT,
PRINCE EDWARD ISLAND,
QUÉBEC,
SASKATCHEWAN,
AND
YUKON

AND

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

AND

IN THE MATTER OF
VIRGO CX INC.
(the Filer)

DECISION

Background

As set out in CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* (**Staff Notice 21-327**) and Joint CSA/Investment Industry Regulatory Organization of Canada (**IIROC**) Staff Notice 21-329 *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements* (**Staff Notice 21-329**), securities legislation applies to crypto asset trading platforms (**CTPs**) that facilitate or propose to facilitate the trading of instruments or contracts involving anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual token (a **Crypto Asset**) because the user's contractual right to the Crypto Asset may itself constitute a security and/or a derivative (a **Crypto Contract**).

To foster innovation and respond to novel circumstances, the Canadian Securities Administrators (**CSA**) have considered an interim, time-limited registration that would allow CTPs to operate within a regulated environment, with regulatory requirements tailored to the CTPs' operations. The overall goal of the regulatory environment is to ensure there is a balance between the need to be flexible and to facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer is currently registered in the category of restricted dealer in all provinces and territories of Canada. In connection with its registration as a restricted dealer, the Filer previously applied for and received exemptive relief in a decision dated May 30, 2022 on terms substantially similar to this decision (the **Decision**).

Under the terms and conditions of the decision *In the Matter of VirgoCX Inc.* dated May 30, 2022 (the **Prior Decision**), the Filer has operated, and continues to operate, on an interim basis, a platform (the **Platform**) that permits clients resident in Canada to enter into Crypto Contracts to purchase, hold, sell, deposit, and withdraw Crypto Assets.

The exemptive relief granted under the Prior Decision expires on May 30, 2024, and required the Filer to submit an application to its Principal Regulator and the Autorité des marchés financiers (**AMF**) to become registered as an investment dealer no later than May 30, 2023, and to submit an application with the Canadian Investment Regulatory Organization (**CIRO**), formerly IIROC, to become a dealer member by May 30, 2023.

The Filer submitted its membership application to CIRO on May 30, 2023, and submitted an amended membership application to CIRO on December 19, 2023. Having regard to the stage of review of the Filer's CIRO membership application, it is likely that the Filer will require more time to become a CIRO member.

The Filer has submitted an application to extend its existing exemptive relief in order to allow the Filer to complete the CIRO membership process while continuing to operate the Platform on an interim basis, and to incorporate the terms and conditions related to the Filer's offering of Crypto Contracts based on Value-Referenced Crypto Assets (as defined below).

This Decision has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Applicable Jurisdictions (as defined below) will not consider this Decision as constituting a precedent for other filers.

Relief Requested

The securities regulatory authority or regulator in the Jurisdiction has received an application from the Filer (the **Passport Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) extending the time-limited exemption of the Filer from:

(a) the prospectus requirements under the Legislation in respect of the Filer entering into Crypto Contracts with clients to purchase, hold, sell, deposit, and withdraw Crypto Assets (the **Prospectus Relief**); and

(b) the requirement in section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), before it opens an account, takes investment action for a client, or makes a recommendation or exercises discretion to take investment action, to determine on a reasonable basis that the action is suitable for the client (the **Suitability Relief**).

The securities regulatory authority or regulator in the Jurisdiction and each of the other jurisdictions referred to in Appendix A (collectively, the **Coordinated Review Decision Makers**) have received an application from the Filer (collectively with the Passport Application, the **Application**) for a decision under the securities legislation of those jurisdictions exempting the Filer from certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**, and together with the Prospectus Relief and the Suitability Relief, the **Requested Relief**).

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

(a) the Ontario Securities Commission is the principal regulator for the Application (the **Principal Regulator**);

(b) in respect of the Prospectus Relief and the Suitability Relief, the Filer has provided notice that, in the jurisdictions where required, 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 (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**); and

(c) the decision in respect of the Trade Reporting Relief is the decision of the Principal Regulator and evidences the decision of each Coordinated Review Decision Maker.

Interpretation

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

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

(a) "Acceptable Third-party Custodian" means an entity that:

a. is one of the following:

i. a Canadian custodian or Canadian financial institution, as those terms are defined in NI 31-103;

ii. a custodian qualified to act as a custodian or sub-custodian for assets held in Canada pursuant to section 6.2 [Entities Qualified to Act as Custodian or Sub-Custodian for Assets Held in Canada] of National Instrument 81-102 *Investment Funds*;

iii. a custodian that meets the definition of an "acceptable securities location" in accordance with the Investment Dealer and Partially Consolidated Rules and Form 1 of CIRO;

iv. a foreign custodian (as defined in NI 31-103) for which the Filer has obtained the prior written consent from the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s); or

v. an entity that does not meet the criteria for a qualified custodian (as defined in NI 31-103) and for which the Filer has obtained the prior written consent from the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s);

b. is functionally independent of the Filer within the meaning of NI 31-103;

c. has obtained audited financial statements within the last twelve months which

i. are audited by a person or company that is authorized to sign an auditor's report under the laws of a jurisdiction of Canada or a foreign jurisdiction and that meets the professional standards of that jurisdiction;

ii. are accompanied by an auditor's report that expresses an unqualified opinion; and

iii. unless otherwise agreed to by the Principal Regulator, discloses on their statement of financial position or in the notes of the audited financial statements the amount of liabilities that it owes to its clients for holding their assets, and the amount of assets held by the custodian to meet its obligations to those custody clients, broken down by asset; and

d. has obtained a Systems and Organization Controls (SOC) 2 Type 1 or SOC 2 Type 2 report within the last twelve months or has obtained a comparable report recognized by a similar accreditation board satisfactory to the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s).

(b) "Act" means the *Securities Act* (Ontario).

(c) "App" means the iOS and Android application that provides access to the Platform.

(d) "CIPF" means the Canadian Investor Protection Fund.

(e) "Crypto Asset Statement" means the statement described in representation 35(e)(v).

(f) "IOSCO" means the International Organization of Securities Commissions.

(g) "permitted client" has the meaning ascribed to that term in NI 31-103.

(h) "Promoter" has the meaning ascribed to that term in Canadian securities legislation.

(i) "Proprietary Token" means, with respect to a person or company, a Crypto Asset that is not a Value-Referenced Crypto Asset, and for which the person or company or an affiliate of the person or company acted as the issuer (and mints or burns the Crypto Asset) or a promoter.

(j) "Registered CTP" means a CTP that is registered as a restricted dealer or an investment dealer under securities legislation in one or more Applicable Jurisdictions.

(k) "Specified Crypto Asset" means the Crypto Assets listed in Appendix B to this Decision.

(l) "Specified Foreign Jurisdiction" means any of the following: Australia, Brazil, any member country of the European Union, Hong Kong, Japan, the Republic of Korea, New Zealand, Singapore, Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and any other jurisdiction that the Principal Regulator may advise.

(m) "Value-Referenced Crypto Asset" or "VRCA" means a Crypto Asset that is designed to maintain a stable value over time by referencing the value of a fiat currency or other value or right, or combination thereof.

(n) "Website" means the website **https://virgocx.ca** or such other website as may be used to host the Platform from time to time.

In this Decision, a person or company is an affiliate (an **Affiliate**) of another person or company if:

(a) one of them is, directly or indirectly, a subsidiary of the other; or

(b) each of them is controlled, directly or indirectly, by the same person.

Representations

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

The Filer

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

2. The Filer operates under the business name of "VirgoCX".

3. The Filer is a wholly-owned subsidiary of VirgoCX Global Holdings Inc. (**VGHI**).

4. The Filer and VGHI do not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.

5. The Filer is registered as a dealer in the category of restricted dealer with the Applicable Jurisdictions.

6. The Filer is registered as a money services business (**MSB**) under regulations made under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)* (**Canadian AML/ATF Law**).

7. The Filer's personnel consist of software engineers, compliance professionals and client support representatives who each have experience operating in a regulated financial services environment as an MSB and expertise in blockchain technology. All of the Filer's personnel have passed criminal records checks and new personnel joining the Filer after May 30, 2022 will have passed criminal records and credit checks. The Filer does not have any dealing representatives.

8. Except for not submitting an application to its Principal Regulator and the AMF to become registered as an investment dealer, the Filer is not in default of securities legislation of any jurisdiction of Canada.

9. The Filer has been actively and diligently working with CIRO, including:

(a) updating CIRO on the financial health and viability of the Filer as well as presenting updated views of the market along with updated 5-year business plans;

(b) preparing multiple detailed versions of the Filer's investment dealer membership application which comprehensively describes the Platform, how the Filer complies with CIRO Rules and where exemptive relief may be required;

(c) preparing and presenting on the Platform at numerous meetings with CIRO Staff;

(d) preparing draft exemptive relief applications, where such relief may be required from CIRO;

(e) updating policies and procedures to reflect CIRO's requirements; and

(f) engaging with external consultants and legal counsel to ensure policies and procedures meet industry standards and best practices.

10. Since May 2023, the Filer has engaged numerous additional compliance, trading, operational and financial personnel to support the Platform and the Filer's transition to CIRO.

11. The transition efforts have also involved senior operational, legal, trading and financial personnel from the Filer, and members of broader product, engineering, security, finance, operations, fraud, communications, compliance and legal teams have supported the transition efforts, in addition to other responsibilities.

12. The Filer requires additional time to complete its CIRO membership application. The Filer anticipates the following key steps will need to be taken:

(a) responding to any further requests for information from CIRO;

(b) completing work necessary for the Filer's accounting ledger to consume and reflect activity in Crypto Assets;

(c) completing the integration of an order management system into the Crypto Asset trading workflow; and

(d) submitting applications for exemptive relief to CIRO and addressing any comments on those applications.

13. The Filer will continue to work actively and diligently with CIRO to complete the CIRO membership process.

VirgoCX Platform

14. The Filer operates under the business name of "VirgoCX". The Filer operates the Platform for the trading of crypto assets in Canada that enables clients of the Filer to buy, sell, hold, deposit, and withdraw Crypto Assets through the Filer.

15. The Filer's role under the Crypto Contracts is to buy or sell Crypto Assets and to provide custody services for all Crypto Assets held in accounts on the Platform.

16. The Platform is governed by terms of service (the **VirgoCX TOS**).

17. Under the VirgoCX TOS, the Filer maintains certain controls over client Crypto Assets to ensure compliance with applicable laws and to provide secure custody of the client assets.

18. The Filer's trading of Crypto Contracts is consistent with activities described in Staff Notice 21-327 and constitutes the trading of securities and/or derivatives.

19. The Filer does not have any authority to act on a discretionary basis on behalf of clients and will not offer or provide discretionary investment management services relating to Crypto Assets.

20. The Filer is not a member firm of CIPF and the Crypto Assets custodied do not qualify for CIPF coverage.

21. The Risk Statement (defined below) includes disclosure that there is no CIPF coverage for the Crypto Assets and clients must acknowledge that they have received, read and understood the Risk Statement before opening an account with the Filer.

OTC Trading

22. VirgoCX Direct Inc., an Affiliate of the Filer, operates an over-the-counter (**OTC**) trading desk for orders of a minimum size of C$30,000. The OTC trading desk allows clients to purchase or sell Crypto Assets from VirgoCX Direct Inc. VirgoCX Direct Inc. immediately delivers, as described in Staff Notice 21-327, any purchased Crypto Assets to the purchaser at a blockchain wallet address specified by the purchaser which is not under the ownership, possession, or control of VirgoCX Direct Inc. or the Filer.

23. VirgoCX Direct Inc. will only sell Crypto Assets that the Filer has reasonably determined are not securities or derivatives following the procedures set out in representations 24 to 28 of this Decision. The Filer and VirgoCX Direct Inc. acknowledge that any determination made by the Filer as set out in representations 24 to 28 of this Decision does not prejudice the ability of any of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset that VirgoCX Direct Inc. may sell is a security and/or derivative.

Crypto Assets Available Through the Platform

24. The Filer has established and applies policies and procedures to review Crypto Assets and to determine whether to allow clients on its Platform to enter into Crypto Contracts to buy, sell, or hold the Crypto Assets on its Platform in accordance

with the know-your-product (**KYP**) provisions of NI 31-103 (**KYP Policy**). Such review includes, but is not limited to, publicly available information concerning:

(a) the creation, governance, usage and design of the Crypto Asset, including the source code, security and roadmap for growth in the developer community and, if applicable, the background of the developer(s) that created the Crypto Asset;

(b) the supply, demand, maturity, utility and liquidity of the Crypto Asset;

(c) material technical risks associated with the Crypto Asset, including any code defects, security breaches and other threats concerning the Crypto Asset and its supporting blockchain (such as the susceptibility to hacking and impact of forking), or the practices and protocols that apply to them; and

(d) legal and regulatory risks associated with the Crypto Asset, including any pending, potential, or prior civil, regulatory, criminal, or enforcement action relating to the issuance, distribution, or use of the Crypto Asset.

25. The Filer only offers and only allows clients the ability to enter into Crypto Contracts based on Crypto Assets that (a) are not each themselves a security and/or a derivative, or (b) are Value-Referenced Crypto Assets, in accordance with condition E of this Decision.

26. The Filer does not allow clients to enter into a Crypto Contract to buy or sell Crypto Assets unless the Filer has taken steps to:

(a) assess the relevant aspects of each Crypto Asset pursuant to the KYP Policy and, as described in representation 24, to determine whether it is appropriate for its clients;

(b) approve the Crypto Asset, and Crypto Contracts to buy, and sell such Crypto Asset, to be made available to clients; and

(c) monitor the Crypto Asset for significant changes and review its approval under (b) where a significant change occurs.

27. The Filer is not engaged, and will not engage without the prior written consent of the Principal Regulator, in trades that are part of, or designed to facilitate, the design, creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset, its issuers or Affiliates or associates of such persons.

28. As set out in the KYP Policy, the Filer determines whether a Crypto Asset available to be bought or sold through a Crypto Contract is a security and/or derivative and is being offered in compliance with securities and derivatives laws, which include but are not limited to:

(a) consideration of statements made by any regulators or securities regulatory authorities of the Applicable Jurisdictions, other regulators in the IOSCO member jurisdictions, or the regulator with the most significant connection to a Crypto Asset about whether the Crypto Asset, or generally about whether the type of Crypto Asset, is a security and/or derivative; and

(b) if the Filer determines it to be necessary, obtaining legal advice as to whether the Crypto Asset is a security and/or derivative under securities legislation of the Applicable Jurisdictions.

29. The Filer monitors ongoing developments related to the Crypto Assets available on its Platform that may cause a Crypto Asset's status as a security and/or derivative or the assessment conducted by the Filer pursuant to its KYP Policy and as described in representations 24 to 28 to change.

30. The Filer acknowledges that any determination made by the Filer, including those set out in representations 24 to 28 of this Decision, does not prejudice the ability of any of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset that a client may enter into a Crypto Contract to buy and sell is a security and/or derivative.

31. The Filer has established and applies policies and procedures to promptly stop the trading of any Crypto Asset available on its Platform and to allow clients to liquidate in an orderly manner their positions in Crypto Contracts with underlying Crypto Assets that the Filer ceases to make available on its Platform.

Know-Your-Client and Account Appropriateness Assessment

32. Each client must open an account (a Client Account) using the Website or App to access the Platform. Client Accounts are governed by the VirgoCX TOS that are accepted by clients at the time of account opening.

33. The Filer has adopted eligibility criteria for the onboarding of all clients. All clients on the Platform must: (a) successfully complete the Filer's know-your-client (KYC) process which satisfies the identity verification requirements applicable to reporting entities under Canadian AML/ATF Law, and (b) hold an account with a Canadian financial institution. Each Canadian client who is an individual, and each individual who is authorized to give instructions for a Canadian client that is a legal entity, must be: (c) a Canadian citizen or permanent resident; and (d) 18 years or older.

34. The Filer does not provide recommendations or advice to clients or conduct a trade-by-trade suitability determination for clients, but rather performs account appropriateness assessments and applies Client Limits (as defined in representation 35(d)).

35. As part of the account opening process:

    (a) The Filer complies with the applicable KYC account opening requirements under applicable legislation and under Canadian AML/ATF Laws by collecting KYC information which satisfies the identity verification requirements applicable to reporting entities.

    (b) The Filer assesses "account appropriateness". Specifically, prior to opening a Client Account, the Filer uses electronic questionnaires to collect information that the Filer will use to determine whether and to what extent it is appropriate for a prospective client to enter into Crypto Contracts with the Filer to buy and/or sell Crypto Assets. The account appropriateness assessment conducted by the Filer considers the following factors (the **Account Appropriateness Factors**):

        (i) the client's experience and knowledge in investing in Crypto Assets;

        (ii) the client's financial assets and income;

        (iii) the client's risk tolerance; and

        (iv) the Crypto Assets approved to be made available to a client by entering into Crypto Contracts on the Platform.

    (c) The Account Appropriateness Factors are used by the Filer to evaluate whether and to what extent entering into Crypto Contracts with the Filer is appropriate for a prospective client before the opening of a Client Account. After completion of the account appropriateness assessment, a prospective client that is not a permitted client or a Registered CTP receives appropriate messaging about using the Platform to enter into Crypto Contracts, which, in circumstances where the Filer has evaluated that entering into Crypto Contracts with the Filer is not appropriate for the client, will include prominent messaging to the client that this is the case and that the client will not be permitted to open a Client Account.

    (d) The Filer has adopted and applies policies and procedures to conduct an assessment to establish appropriate limits on the losses that a client that is not a permitted client or a Registered CTP can incur, what limits will apply to such client based on the Account Appropriateness Factors (the **Client Limit**), and what steps the Filer will take when the client approaches or exceeds their Client Limit. After completion of the assessment, the Filer will implement controls to monitor and apply the Client Limit.

    (e) The Filer provides a prospective client with a separate statement of risk (the **Risk Statement**) that clearly explains the following in plain language:

        (i) the Crypto Contracts;

        (ii) the risks associated with the Crypto Contracts;

        (iii) a prominent statement that no securities regulatory authority or regulator in Canada has assessed or endorsed the Crypto Contracts or the Crypto Assets made available through the Platform;

        (iv) the due diligence performed by the Filer before making a Crypto Asset available through the Platform, including the due diligence performed by the Filer to assess whether the Crypto Asset is a security and/or derivative under the securities and derivatives legislation of each of the jurisdictions of Canada and the securities and derivatives laws of the foreign jurisdiction with which the Crypto Asset has the most significant connection, and the risks if the Filer has incorrectly determined that the Crypto Asset is not a security and/or derivative;

        (v) that the Filer has prepared a plain language description of each Crypto Asset and of the risks of the Crypto Asset made available through the Platform, with instructions as to where on the Platform the client may obtain the descriptions (each, a **Crypto Asset Statement**);

(vi) the Filer's policies for halting, suspending and withdrawing a Crypto Asset from trading on the Platform, including criteria that would be considered by the Filer, options available to clients holding such a Crypto Asset, any notification periods and any risks to clients;

(vii) the location and the manner in which Crypto Assets are held for the client, and the risks and benefits to the client of the Crypto Assets being held in that location and in that manner including the impact of insolvency of the Filer or the Acceptable Third-party Custodian;

(viii) the manner in which the Crypto Assets are accessible by the Filer, and the risks and benefits to the client arising from the Filer having access to the Crypto Assets in that manner;

(ix) that the Filer is not a member of CIPF and the Crypto Contracts issued or entered into by the Filer and the Crypto Assets held by the Filer (directly or indirectly through third parties) will not qualify for CIPF protection;

(x) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Risk Statement or a Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision; and

(xi) the date on which the information was last updated.

36. In order for a prospective client to open and operate a Client Account with the Filer, the Filer obtains an electronic acknowledgement from the prospective client confirming that the prospective client has received, read and understood the Risk Statement. Such acknowledgement will be prominent and separate from other acknowledgements provided by the prospective client as part of the account opening process.

37. A copy of the Risk Statement acknowledged by a client is made available to the client in the same place as the client's other statements on the Platform. The most recent Risk Statement is available on the Platform.

38. The Filer applies written policies and procedures for updating the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts, crypto assets generally, or a specific Crypto Asset, as the case may be. In the event the Risk Statement is updated, clients of the Filer will be promptly notified of the update and provided with a copy of the updated Risk Statement. In the event a Crypto Asset Statement is updated, clients of the Filer will be promptly notified, with links to the updated Crypto Asset Statement.

39. Before a client enters into a Crypto Contract to buy a Crypto Asset, the Filer provides instructions for the client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Website or App.

40. Each Crypto Asset Statement includes:

(a) a prominent statement that no securities regulatory authority or regulator in Canada has assessed or endorsed the Crypto Contracts or any Crypto Assets made available through the Platform;

(b) a description of the Crypto Asset, including the background of the creation of the Crypto Asset, including the background of the developer(s) that first created the Crypto Asset, if applicable;

(c) a description of the due diligence performed by the Filer with respect to the Crypto Asset;

(d) any risks specific to the Crypto Asset;

(e) a direction to the client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and the Crypto Assets made available through the Platform;

(f) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision; and

(g) the date on which the information was last updated.

41. The Filer monitors Client Accounts after opening to identify activity inconsistent with the client's account, the account appropriateness assessment and Crypto Asset assessment. If warranted, the client may receive further messaging about the Platform and the Crypto Assets, specific risk warnings and/or receive direct outreach from the Filer about their activity. The Filer monitors compliance with the Client Limits established by the Filer as described in representation 35(d). If

warranted, the client will receive warnings when their Client Account is approaching its Client Limit, which will include information on steps the client may take to prevent the client from incurring further losses.

42. The Filer also prepares and makes available to its clients, on an ongoing basis and in response to emerging issues in Crypto Assets, educational materials and other informational updates about trading on the Platform and the ongoing development of Crypto Assets and Crypto Asset trading markets.

Platform Operations

43. A Crypto Contract is a bilateral contract between a Client and the Filer. Accordingly, the Filer is a counterparty to all trades entered by Clients on the Platform. For each client transaction, the Filer will also be a counterparty to a corresponding Crypto Asset buy or sell transaction with a crypto asset trading firm or marketplace (**Liquidity Provider**).

44. All Crypto Contracts entered into by clients to buy and sell Crypto Assets are placed with the Filer through the Website or App. Clients are able to submit orders, either in units of the applicable Crypto Asset or in fiat currency, 24 hours a day, 7 days a week. Clients are able to deposit and withdraw certain Crypto Assets and Canadian dollars, 24 hours a day, 7 days a week (or where applicable, for fiat currency, during banking hours).

45. The Filer establishes, maintains, and ensures compliance with policies and procedures that identify and manage conflicts of interest arising from the operation of the Platform and its related services, including conflicts between the interests of its owners, its commercial interests and the responsibilities and sound functioning of the Platform and related services.

46. The Filer relies upon multiple Liquidity Providers to act as sellers of Crypto Assets that may be purchased by the Filer for its clients. Liquidity Providers may also buy any Crypto Assets from the Filer that clients wish to sell.

47. The Filer evaluates the prices obtained from its Liquidity Providers on an ongoing basis against global benchmarks to provide fair and reasonable pricing to its clients.

48. The Filer has taken or will take reasonable steps to verify that each Liquidity Provider is appropriately registered and/or licensed to trade in the Crypto Assets in their home jurisdiction, or that their activities do not require registration in their home jurisdiction, and that they are not in default of securities legislation in the Applicable Jurisdictions. The Filer will cease using a Liquidity Provider upon the direction of the Principal Regulator when the Principal Regulator has concerns relating to the Liquidity Provider.

49. The Filer has verified that each Liquidity Provider has effective policies and procedures to address concerns relating to fair price, fraud and market manipulation.

50. The Filer charges trading commissions on purchases of Crypto Assets at rates disclosed on the Platform under “Fees” and incorporated by reference into the VirgoCX TOS. The total commission payable in respect of a transaction is disclosed to the client prior to confirmation of the order.

51. The Platform continuously obtains prices for the Crypto Assets made available for trading from a Liquidity Provider, after which the Platform incorporates a ‘spread’ to compensate the Filer to determine the price to offer to clients. The Filer then presents on a continuous basis this adjusted price to clients as the price at which the Filer is willing to transact against a client.

52. If the client finds the price agreeable, the client may enter a market order to transact against the displayed price. Otherwise, the client may enter a “limit order” at a price where the client would be willing to trade and if the price offered by the Platform at a future time meets the price entered by the client, then the client’s order will automatically be executed.

53. The Filer promptly ensures that the increase or decrease in Crypto Assets in the client’s account resulting from the trade is reflected in the Crypto Asset balances held in custody on the Platform, as described below under “Custody of Crypto Assets”. To the extent necessary to fulfil its settlement obligations to clients, the Filer may trade with its Liquidity Providers on a net basis. Where there are net purchases of Crypto Assets over and above what is held in the Filer’s inventory, the Filer arranges for the cash to be transferred to the Liquidity Providers and Crypto Assets to be sent by the Liquidity Providers to the Filer. Where there are net sales of Crypto Assets over and above what the Filer wants to hold in inventory, the Filer may sell Crypto Assets to its Liquidity Providers.

54. Trading pairs available on the Platform include Crypto Asset-for-fiat and Crypto Asset-for-Crypto Asset.

55. Clients have access to a complete record of all transactions in their Client Account, including all transfers in of fiat or Crypto Assets, all purchases, sales and withdrawals, and the relevant prices, commissions and withdrawal fees charged in respect of such transactions.

56. Clients can fund their account by transferring in fiat currency or Crypto Assets. Clients can transfer in fiat currency by Interac e-transfer or bank wire, with the minimum and maximum amount for each transfer type set out under "Fees" on the Platform. At this time, the Filer does not charge clients a deposit fee when transferring fiat currency or Crypto Assets into their Client Account.

57. Clients are charged a withdrawal fee when transferring Crypto Assets out of their Client Account to a blockchain address specified by the client. The withdrawal fee varies by Crypto Asset and is disclosed on the Platform under "Fees". Part of the withdrawal fee covers fees charged by the Filer's payment processor to process the withdrawal transaction. The total withdrawal fee payable in respect of a withdrawal is disclosed to the client prior to confirmation of the withdrawal.

58. Prior to transferring Crypto Assets out of a Client Account, the Filer conducts secondary verification of the blockchain address and screens the blockchain address specified by the transferring client using blockchain forensics software.

Pre-trade Controls and Settlement

59. The Filer does not allow clients to enter into a Crypto Contract to buy or sell Crypto Assets unless the Filer has taken steps:

    (a) to review the Crypto Asset, including the information specified in representation 24;

    (b) to approve the Crypto Asset, and Crypto Contracts to buy and sell such Crypto Asset, to be made available to clients; and

    (c) as set out in representation 29, to monitor the Crypto Asset for significant changes and review its approval under (b) where a significant change occurs.

60. The Filer's books and records record all of the trades executed on the Platform. No order will be accepted by the Filer unless there are sufficient cash or Crypto Assets available in the Client Account to complete the trade.

61. The Filer does not, and will not, extend margin, credit or other forms of leverage to clients in connection with trading Crypto Assets on the Platform, and will not offer derivatives based on Crypto Assets to clients other than Crypto Contracts.

62. The Filer promptly, and no later than two business days after the trade, settles transactions with the Liquidity Providers on a net basis. Where there are net purchases of Crypto Assets with a Liquidity Provider, the Filer arranges for cash to be transferred to the Liquidity Provider and Crypto Assets to be sent by the Liquidity Provider to the Filer. Where there are net sales of Crypto Assets, the Filer arranges for Crypto Assets to be sent from the Filer to the Liquidity Provider in exchange for cash received by the Filer from the Liquidity Provider.

63. All fees and commissions earned by the Filer are clearly disclosed on the Platform, and the Filer's clients can check the quoted prices for Crypto Assets on the Platform against the prices available on other Registered CTPs in Canada.

64. Clients receive electronic trade confirmations and monthly statements setting out the details of the transaction history in their Client Account. Clients are able to view their transaction history and account balances in real time by accessing their Client Account using the Website or App.

65. In addition to the Risk Statement, Crypto Asset Statement, ongoing education initiatives and the account appropriateness assessment described in representations 35 to 42, the KYP assessments described in representations 24 to 29, and the Client Limits described in representations 35(d) and 41, the Filer also monitors client activity, and contacts clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the client, or that additional education is required. The outcome of this engagement with a client may result, in some cases, in a decision by the Filer to close a client's account.

Custody of Crypto Assets

66. The Filer holds clients' Crypto Assets (i) in blockchain wallets or accounts clearly designated for the benefit of clients or in trust for clients, and (ii) separate and apart from its own assets (including crypto assets held in inventory by the Filer for operational purposes) and from the assets of any custodial service provider. The Filer is not permitted to pledge, re-hypothecate or otherwise use any Crypto Assets owned by its clients.

67. The Filer is proficient and experienced in holding Crypto Assets and has established and applies policies and procedures that manage and mitigate custodial risks, including an effective system of controls and supervision to safeguard Crypto Assets. The Filer also maintains appropriate policies and procedures related to information technology security, cyber-resilience, disaster recovery capabilities, and business continuity plans.

68. The Filer has expertise in and has developed anti-fraud and anti-money-laundering monitoring systems, for both fiat and Crypto Assets, to reduce the likelihood of fraud, money laundering, or client error in sending or receiving Crypto Assets to incorrect wallet addresses.

69. The Filer has and will retain the services of third-party custodians to hold not less than 80% of the total value of Crypto Assets held on behalf of clients. The Filer primarily uses Coinbase Custody Trust Company LLC as custodian (the **Custodian**) and will use other custodians as necessary after reasonable due diligence. The Filer maintains its own hot wallets to hold limited amounts of Crypto Assets that will be used to facilitate client deposit and withdrawal requests and to facilitate trade settlement with Liquidity Providers. However, the majority of Crypto Assets are held with the Custodian. Up to 20% of the Filer's total client Crypto Assets may be held online in: (i) hot wallets secured by Fireblocks Inc. (**Fireblocks**); and (ii) hot wallets secured by the Filer's proprietary software (**Proprietary Hot Wallets**). A maximum of 5% of the Filer's total Client Crypto Assets may be held in the Proprietary Hot Wallets.

70. The Custodian is licensed as a limited purpose trust company with the New York Department of Financial Services (**NYDFS**). The Custodian has completed a Service Organization Controls (**SOC**) report under the SOC 2 – Type 1 and SOC 2 – Type 2 standards from a leading global audit firm. The Filer has conducted due diligence on the Custodian, including, among others, the custodian's policies and procedures for holding Crypto Assets and a review of the Custodian's SOC 2 Type 2 examination reports. The Filer has not identified any material concerns. The Filer has also assessed whether the Custodian meets the definition of an Acceptable Third-party Custodian.

71. The Custodian operates a custody account for the Filer to use for the purpose of holding the clients' Crypto Assets in trust for clients of the Filer.

72. Those Crypto Assets that the Custodian holds in trust for clients of the Filer are held in segregated omnibus accounts in the name of the Filer in trust for or for the benefit of the Filer's clients and are held separate and distinct from the assets of the Filer, the Filer's Affiliates, the Custodian, and the Custodian's other clients.

73. Coinbase Global Inc., the parent company of the Custodian, maintains US$320 million of insurance (per-incident and overall) which covers losses of assets held by the Custodian, on behalf of its clients due to third-party hacks, copying or theft of private keys, insider theft or dishonest acts by the Custodian employees or executives and loss of keys. The Filer has assessed the Custodian's insurance policy and has determined, based on information that is publicly available and on information provided by the Custodian and considering the scope of the Custodian's business, that the amount of insurance is appropriate.

74. The Custodian has established and applies policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian and to mitigate security breaches and cyber incidents. The Custodian has established and applies written disaster recovery and business continuity plans.

75. The Filer has assessed the risks and benefits of using the Custodian and has determined that in comparison to a Canadian custodian (as that term is defined in NI 31-103), it is more prudent and beneficial to use the Custodian, a U.S. custodian, to hold the Crypto Assets the Custodian supports with the Custodian than using a Canadian custodian.

76. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to ensure the Custodian's records related to Crypto Assets that the Custodian holds in trust for clients of the Filer are accurate and complete.

77. All client cash that is being held by the Filer is and will be held by a Canadian financial institution in a designated trust account, in the name of the Filer in trust for clients of the Filer and separate and apart from the Filer's fiat currency balances.

78. The Filer confirms on a daily basis that clients' Crypto Assets held with the Custodian and held by the Filer reconcile with the Filer's books and records to ensure that all clients' Crypto Assets are accounted for. Clients' Crypto Assets held in trust for their benefit in hot wallets and with the Custodian are deemed to be the clients' Crypto Assets in case of the insolvency and/or bankruptcy of the Filer or of the Custodian.

79. Clients are permitted to transfer into their Client Account with the Filer, Crypto Assets they obtained outside the Platform or withdraw from their Client Account with the Filer, Crypto Assets they have purchased pursuant to their Crypto Contracts with the Filer or previously deposited with the Filer. The Filer may not support transfers for all Crypto Assets. Upon request by a client, the Filer will promptly deliver possession and/or control of the Crypto Assets purchased under a Crypto Contract to a blockchain address specified by the client, subject to first satisfying all applicable legal and regulatory requirements, including anti-money laundering requirements and anti-fraud controls.

80. The Filer licenses software from Fireblocks which includes a crypto asset wallet that stores private and public keys and interacts with various blockchains to send and receive crypto assets and monitor balances. Fireblocks uses secure

multiparty computation to share signing responsibility for a particular blockchain address among multiple independent persons.

81. The Filer operates the Proprietary Hot Wallets using software developed by the Filer which stores private and public keys and interacts with various blockchains to send and receive crypto assets and monitor balances. The Proprietary Hot Wallets are programmed to operate automatically within specified maximum value thresholds, and any programming changes or manual transactions require the approval of multiple individuals from the Filer's senior management team.

82. Fireblocks has obtained a SOC report under the SOC 2 – Type 2 standard from a leading global audit firm. The Filer has reviewed a copy of the SOC 2 – Type 2 audit report prepared by the auditors of Fireblocks, and has not identified any material concerns.

83. The Filer has licensed software from Digital Assets Services Limited (trading as Coincover) (**Coincover**) to provide additional security for keys to Crypto Assets held by the Filer using Fireblocks, including key pair creation, key pair storage, device access recovery and account access recovery. Coincover is based in the United Kingdom and is regulated by the U.K. Financial Conduct Authority.

84. Backup key material for the Filer's hot wallets secured using Fireblocks is secured by Coincover and 100% covered against loss or theft by a leading global insurance provider. The Filer has also obtained a guarantee through Coincover for the loss of Crypto Assets held in its Fireblocks hot wallets.

85. Fireblocks has insurance coverage in the amount of US$30 million in aggregate which, in the event of theft of Crypto Assets from hot wallets secured by Fireblocks due to an external cyber breach of Fireblocks' software or any malicious or intentional misbehaviour or fraud committed by employees, will be distributed among applicable Fireblocks customers, which could include the Filer, pursuant to an insurance settlement agreement.

86. In addition, backup key material for the Filer's Fireblocks hot wallets is secured by Coincover and 100% covered against loss or theft by a leading global insurance provider.

87. The insurance obtained by the Filer includes coverage for loss or theft of the Crypto Assets, in accordance with the terms of the Filer's insurance policy and the Filer has assessed the insurance coverage to be sufficient to cover the loss of Crypto Assets, whether held directly by the Filer or indirectly through the Custodian.

88. The Filer will supplement the insurance coverage and guarantee available through its services providers for the loss of Crypto Assets held in its hot wallets, by setting aside cash that will be held in an account at a Canadian financial institution, separate from the Filer's operational accounts and Filer's Client Accounts, in an amount agreed upon with its Principal Regulator. Depending on the circumstances, either funds from the guarantee or the bank account would be available in the event of loss of Crypto Assets held in the Filer's hot wallets secured by Fireblocks. In the event of a loss of Crypto Assets held in the Proprietary Hot Wallets, funds from the bank account will be available.

Capital Requirements

89. The Filer will exclude from the excess working capital calculation all the Crypto Assets, including Proprietary Tokens and all Value-Referenced Crypto Assets, it holds for which there is no offsetting by a corresponding current liability, such as Crypto Assets held for its clients as collateral to guarantee obligations under Crypto Contracts, included on line 1, Current assets, of Form 31-103F1. This will result in the exclusion of all the Crypto Assets inventory, including Proprietary Tokens inventory and all of the Value-Referenced Crypto Assets inventory, held by the Filer from Form 31-103F1 (Schedule 1, line 9).

Marketplace and Clearing Agency

90. The Filer does not and will not operate a "marketplace" as that term is defined in National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) and in Ontario, subsection 1(1) of the Act.

91. The Filer does not and will not operate a "clearing agency" or a "clearing house" as the terms are defined or referred to in securities legislation. Any clearing or settlement activity conducted by the Filer is incidental to the Filer engaging in the business of a CTP. Any activities of the Filer that may be considered the activities of a clearing agency or clearing house are related to the Filer arranging or providing for settlement of obligations resulting from agreements entered into on a bilateral basis and without a central counterparty.

Decision

The Principal Regulator is satisfied that the Decision satisfies the test set out in the Legislation for the Principal Regulator to make the Decision and each Coordinated Review Decision Maker is satisfied that the Decision in respect of the Trade Reporting Relief,

as applicable, satisfies the tests set out in the securities legislation of its jurisdiction for the Coordinated Review Decision Maker to make the Decision in respect of the Trade Reporting Relief, as applicable.

The Decision of the Principal Regulator under the Legislation is that the Prior Decision is revoked and the Requested Relief is granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation in its jurisdiction is that the Trade Reporting Relief, as applicable, is granted, provided that and for so long as the Filer complies with the following terms and conditions:

A. Unless otherwise exempted by a further decision of the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other Jurisdiction, the Filer complies with all of the terms, conditions, restrictions and requirements applicable to a registered dealer under securities legislation, including the Legislation, and any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the Filer.

B. The Filer is registered as a restricted dealer or investment dealer in the Jurisdiction and the jurisdiction in which the client is resident.

C. The Filer will continue to work actively and diligently with the OSC, AMF and CIRO to transition the Filer's registration to investment dealer registration and obtain CIRO membership.

D. The Filer, and any employee, agent or other representatives of the Filer, will not provide recommendations or advice to any client or prospective client on the Platform.

E. The Filer will only trade in Crypto Assets or Crypto Contracts based on Crypto Assets that (i) are not securities or derivatives, or (ii) are Value-Referenced Crypto Assets, provided that:

   (a) the Filer does not allow clients to buy or deposit, or enter into Crypto Contracts to buy or deposit, Value-Referenced Crypto Assets that do not satisfy the conditions set out in section 1 of Appendix C, and

   (b) by October 31, 2024, the Filer will no longer allow clients to buy or deposit Value-Referenced Crypto Assets, that do not comply with the terms and conditions set out in Appendix C.

F. The Filer will not operate a "marketplace" as the term is defined in NI 21-101 and in Ontario, in subsection 1(1) of the Act or a "clearing agency" or "clearing house" as the terms are defined or referred to in securities legislation.

G. The Filer has and will continue to confirm that it is not liable for the debt of an Affiliate or Affiliates that could have a material negative effect on the Filer.

H. At all times, the Filer will hold not less than 80% of the total value of all Crypto Assets held on behalf of clients with one or more custodians that meets the definition of an "Acceptable Third-party Custodian", unless the Filer has obtained the prior written approval of the Principal Regulator to hold a different percentage with an Acceptable Third-party Custodian or has obtained the prior written approval of the Principal Regulator and the regulator or securities regulatory authority of the other Jurisdictions to hold at least 80% of the total value of the Crypto Assets with an entity that does not meet certain criteria of an Acceptable Third-party Custodian.

I. Before the Filer holds Crypto Assets with an Acceptable Third-party Custodian, the Filer will take reasonable steps to verify that the custodian:

   (a) will hold the Crypto Assets for the Filer's clients (i) in an account clearly designated for the benefit of the Filer's clients or in trust for the Filer's clients, (ii) separate and apart from the assets of the Filer, the Filer's Affiliates, and the custodian's other clients, and (iii) separate and apart from the custodian's own assets and from the assets of any custodial service provider;

   (b) has appropriate insurance to cover the loss of Crypto Assets held at the custodian;

   (c) has established and applies written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian; and

   (d) meets each of the requirements to be an Acceptable Third-party Custodian, except for those criteria in respect of which the custodian does not meet and the Principal Regulator and the regulator or securities regulatory authority of the other Jurisdictions have provided prior written approval for use of the custodian.

J. The Filer will promptly notify the Principal Regulator if the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, the New York State Department of Financial Services or any other regulatory authority applicable to a custodian of the Filer makes a determination that (i) the custodian is not permitted by that regulatory authority to hold client Crypto Assets, or (ii) if there is a change in the status of the custodian as a regulated financial institution. In such a case, the Filer will identify a suitable alternative custody provider that meets the definition of an Acceptable Third-party Custodian to hold the Crypto Assets.

K. For the Crypto Assets held by the Filer, the Filer will:

(a) hold the Crypto Assets for the benefit of and in trust for its clients, and separate and distinct from the assets of the Filer;

(b) ensure there is appropriate insurance to cover the loss of Crypto Assets held by the Filer; and

(c) have established and apply written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian.

L. The Filer will only use Liquidity Providers that it has verified are registered and/or licensed, to the extent required in their respective home jurisdictions, to execute trades in the Crypto Assets and are not in default of securities legislation in any of the Applicable Jurisdictions, and will promptly stop using a Liquidity Provider if (i) the Filer is made aware that the Liquidity Provider is, or (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada has determined it to be, not in compliance with securities legislation.

M. The Filer will evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks and will provide fair and reasonable prices to its clients.

N. The Filer will assess liquidity risk and concentration risk posed by its Liquidity Providers. The liquidity and concentration risks assessment will consider trading volume data (as provided in paragraph 1(e) of Appendix D) and complete a historical analysis of each Liquidity Provider and a relative analysis between the Liquidity Providers. Consideration should be given to whether the Liquidity Provider has issued its own Proprietary Tokens and to consider limiting reliance on those Liquidity Providers.

O. Before each prospective client opens a Client Account, the Filer will deliver to the client a Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement.

P. The Risk Statement delivered as set out in condition O will be prominent and separate from other disclosures given to the client as part of the account opening process, and the acknowledgement will be separate from other acknowledgements by the client as part of the account opening process.

Q. A copy of the Risk Statement acknowledged by a client will be made available to the client in the same place as the client's other statements on the Platform.

R. Before a client enters into a Crypto Contract to buy a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Website and in the App and includes the information set out in representation 40.

S. The Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts and/or Crypto Assets and:

(a) in the event of any update to the Risk Statement, will promptly notify each existing client of the update and deliver to them a copy of the updated Risk Statement, and

(b) in the event of any update to a Crypto Asset Statement, will promptly notify clients through App and Website disclosures, with links to the updated Crypto Asset Statement.

T. Prior to the Filer delivering a Risk Statement to a client, the Filer will deliver, or will have previously delivered, a copy of the Risk Statement delivered to the client to the Principal Regulator.

U. For each client, the Filer will perform an appropriateness assessment as described in representation 35 prior to opening a Client Account, on an ongoing basis and at least every twelve months.

V. The Filer has established and will apply and monitor the Client Limits as set out in representation 35(d).

W. The Filer will monitor client activity and contact clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the client, or that additional education is required.

X. The Filer will ensure that the maximum amount of Crypto Assets, excluding Specified Crypto Assets, that a client, other than (i) clients resident in Alberta, British Columbia, Manitoba and Québec, (ii) clients that are permitted clients and (iii) clients that are Registered CTPs, may purchase and sell on the Platform (calculated on a net basis and is an amount not less than $0) in the preceding 12 months does not exceed a net acquisition cost of $30,000.

Y. In the jurisdictions where the Prospectus Relief is required, the first trade of a Crypto Contract is deemed to be a distribution under securities legislation of that jurisdiction.

Z. The Filer will provide the Principal Regulator with at least 10 days' prior written notice of any:

(a) change of or use of a new custodian; and

(b) material changes to the Filer's ownership, its business operations, including its systems, or its business model.

AA. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of the Filer's, its Affiliate's or its custodian's system of controls or supervision that could have a material impact on the Filer, and what steps have been taken by the Filer to address each such breach or failure. The loss of any amount of Crypto Assets will be considered a material breach or failure.

BB. The Filer will only trade Crypto Assets or Crypto Contracts based on Crypto Assets that are not in and of themselves securities or derivatives.

CC. The Filer will evaluate Crypto Assets as set out in representations 24 to 29.

DD. The Filer will not trade Crypto Assets or Crypto Contracts based on Crypto Assets with a client in an Applicable Jurisdiction, without the prior written consent of the regulator or securities regulatory authority of the Applicable Jurisdiction, where the Crypto Assets were issued by or on behalf of a person or company that is or has in the last five years been the subject of an order, judgment, decree, sanction, fine, or administrative penalty imposed by, or has entered into a settlement agreement with, a government or government agency, administrative agency, self-regulatory organization, administrative tribunal or court in Canada or in a Specified Foreign Jurisdiction in relation to a claim based in whole or in part on fraud, theft, deceit, aiding and abetting or otherwise facilitating criminal activity, misrepresentation, violation of Canadian AML/ATF Laws, conspiracy, breach of trust, breach of fiduciary duty, insider trading, market manipulation, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct.

EE. Except to allow clients to liquidate their positions in an orderly manner in those Crypto Contracts or transfer such Crypto Assets to a blockchain address specified by the client, the Filer will promptly stop trading Crypto Contracts where the underlying asset is a Crypto Asset that (i) the Filer determines it to be, (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada or the foreign jurisdiction with which the Crypto Asset has the most significant connection determines it to be, or (iii) the Filer is made aware or is informed that the Crypto Asset is viewed by a regulator or securities regulatory authority to be, (i) a security and/or derivative, or (ii) a Value-Referenced Crypto Asset that does not satisfy the conditions set out in condition E.

FF. The Filer will not engage, without the prior written consent of the Principal Regulator, in trades that are part of, or designed to facilitate the creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset, its issuers or Affiliates or associates of such persons.

GG. The Filer will exclude from the excess working capital calculation all the Crypto Assets, including Proprietary Tokens and all Value-Referenced Crypto Assets, it holds for which there is no offsetting by a corresponding current liability, as described in representation 89.

Reporting

HH. The Filer will deliver the reporting as set out in Appendix D.

II. Within 7 calendar days from the end of each month, the Filer will deliver to the regulator or securities regulatory authority in each of the Applicable Jurisdictions, a report of all Client Accounts for which the Client Limits established pursuant to representation 35(d) were exceeded during that month.

JJ. The Filer will deliver to the Principal Regulator, within 30 days of the end of March, June, September and December, either (i) blackline copies of changes made to the policies and procedures on the operations of its wallets (including, but not limited to, establishment of wallets, transfer of Crypto Assets into and out of the wallets, and authorizations to access the wallets) previously delivered to the Principal Regulator, or (ii) a nil report stating no changes have been made to its policies and procedures on the operations of its wallets in the quarter.

KK. In addition to any other reporting required by the Legislation, the Filer will provide, on a timely basis, any report, data, document or information to the Principal Regulator, including any information about the Filer's custodian(s) and the Crypto Assets held by the Filer's custodian(s), that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with the Legislation and the conditions in the Decision, in a format acceptable to the Principal Regulator.

LL. Upon request, the Filer will provide the Principal Regulator and the regulators or securities regulatory authorities of each of the Non-Principal Jurisdictions with aggregated and/or anonymized data concerning client demographics and activity on the Platform that may be useful to advance the development of the Canadian regulatory framework for trading crypto assets.

MM. The Filer will promptly make any changes to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator arising from the operation of the Platform.

Time Limited Relief

NN. The Filer will, if it intends to operate the Platform in Ontario and Québec after the expiry of the Decision, take the following steps:

(a) submit an application to the OSC and the AMF to become registered as an investment dealer no later than October 31, 2024;

(b) submit an application with CIRO to become a dealer member no later than October 31, 2024; and

(c) work actively and diligently with the OSC, AMF and CIRO to transition the Platform to investment dealer registration and obtain CIRO membership.

OO. This Decision shall expire on January 31, 2025.

PP. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer in accordance with applicable securities legislation.

In respect of the Prospectus Relief

Dated: May 23, 2024

"David Surat"
Manager, Corporate Finance
Ontario Securities Commission

In respect of the Suitability Relief:

Dated: May 23, 2024

"Michelle Alexander"
Manager, Trading and Markets
Ontario Securities Commission

In respect of the Trade Reporting Relief:

Dated: May 30, 2024

"Michelle Alexander"
Manager, Trading and Markets
Ontario Securities Commission

OSC File #: 2024/0095

APPENDIX A - LOCAL TRADE REPORTING RULES

In this Decision, "**Local Trade Reporting Rules**" collectively means each of the following:

(a) Part 3, Data Reporting of Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**OSC Rule 91-507**)

(b) Part 3, Data Reporting of Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**MSC Rule 91-507**); and

(c) Part 3, Data Reporting of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**)

APPENDIX B - SPECIFIED CRYPTO ASSETS

- Bitcoin
- Ether
- Bitcoin Cash
- Litecoin
- A Value-Referenced Crypto Asset that complies with condition E

APPENDIX C - TERMS AND CONDITIONS FOR TRADING VALUE-REFERENCED CRYPTO ASSETS WITH CLIENTS

1. The Filer establishes that all of the following conditions are met:

    a. The Value-Referenced Crypto Asset references, on a one-for-one basis, the value of a single fiat currency (the "reference fiat currency").

    b. The reference fiat currency is the Canadian dollar or United States dollar.

    c. The Value-Referenced Crypto Asset entitles a Value-Referenced Crypto Asset holder who maintains an account with the issuer of the Value-Referenced Crypto Asset to a right of redemption, subject only to reasonable publicly disclosed conditions, on demand directly against the issuer of the Value-Referenced Crypto Asset or against the reserve of assets, for the reference fiat currency on a one-to-one basis, less only any fee that is publicly disclosed by the issuer of the Value-Referenced Crypto Asset, and payment of the redemption proceeds within a reasonable period as disclosed by the issuer of the Value-Referenced Crypto Asset.

    d. The issuer of the Value-Referenced Crypto Asset maintains a reserve of assets that is:

        i. in the reference fiat currency and is comprised of any of the following:

            1. cash;

            2. investments that are evidence of indebtedness with a remaining term to maturity of 90 days or less and that are issued, or fully and unconditionally guaranteed as to principal and interest, by the government of Canada or the government of the United States;

            3. securities issued by one or more Money Market Funds licensed, regulated or authorized by a regulatory authority in Canada or the United States of America; or

            4. such other assets that the principal regulator of the Filer and the regulator or securities regulatory authority in each Canadian jurisdiction where clients of the Filer reside has consented to in writing;

    e. all of the assets that comprise the reserve of assets are:

        i. measured at fair value in accordance with Canadian GAAP for publicly accountable enterprises or U.S. GAAP at the end of each day,

        ii. held with a Qualified Custodian,

        iii. held in an account clearly designated for the benefit of the Value-Referenced Crypto Asset holders or in trust for the Value-Referenced Crypto Asset holders,

        iv. held separate and apart from the assets of the issuer of the Value-Referenced Crypto Asset and its Affiliates and from the reserve of assets of any other Crypto Asset, so that, to the best of the knowledge and belief of the Filer after taking steps that a reasonable person would consider appropriate, including consultation with experts such as legal counsel, no creditors of the issuer other than the Value-Referenced Crypto Asset holders in their capacity as Value-Referenced Crypto Asset holders, will have recourse to the reserve of assets, in particular in the event of insolvency, and

        v. not encumbered or pledged as collateral at any time; and

    f. the fair value of the reserve of assets is at least equal to the aggregate nominal value of all outstanding units of the Value-Referenced Crypto Asset at least once each day.

2. The issuer of the Value-Referenced Crypto Asset makes all of the following publicly available:

    a. details of each type, class or series of the Value-Referenced Crypto Asset, including the date the Value-Referenced Crypto Asset was launched and key features and risks of the Value-Referenced Crypto Asset;

    b. the quantity of all outstanding units of the Value-Referenced Crypto Asset and their aggregate nominal value at least once each business day;

    c. the names and experience of the persons or companies involved in the issuance and management of the Value-Referenced Crypto Asset, including the issuer of the Value-Referenced Crypto Asset, any manager of

the reserve of assets, including any individuals that make investment decisions in respect of the reserve of assets, and any custodian of the reserve of assets;

d. the quantity of units of the Value-Referenced Crypto Asset held by the issuer of the Value-Referenced Crypto Asset or any of the persons or companies referred to in paragraph (c) and their nominal value at least once each business day;

e. details of how a Value-Referenced Crypto Asset holder can redeem the Value-Referenced Crypto Asset, including any possible restrictions on redemptions such as the requirement for a Value-Referenced Crypto Asset holder to have an account with the issuer of the Value-Referenced Crypto Asset and any criteria to qualify to have an account;

f. details of the rights of a Value-Referenced Crypto Asset holder against the issuer of the Value-Referenced Crypto Asset and the reserve of assets, including in the event of insolvency or winding up;

g. all fees charged by the issuer of the Value-Referenced Crypto Asset for distributing, trading or redeeming the Value-Referenced Crypto Asset;

h. whether Value-Referenced Crypto Asset holders are entitled to any revenues generated by the reserve of assets;

i. details of any instances of any of the following:

i. the issuer of the Value-Referenced Crypto Asset has suspended or halted redemptions for all Value-Referenced Crypto Asset holders, and

ii. the issuer of the Value-Referenced Crypto Asset has not been able to satisfy redemption rights at the price or in the time specified in its public policies;

j. within 45 days of the end of each month, an assurance report from a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America, and that meets the professional standards of that jurisdiction, that complies with all of the following:

i. provides reasonable assurance in respect of the assertion by management of the issuer of the Value-Referenced Crypto Asset that the issuer of the Value-Referenced Crypto Asset has met the requirements in paragraphs (1)(d)-(f) as at the last business day of the preceding month and at least one randomly selected day during the preceding month,

ii. the randomly selected day referred to in subparagraph (i) is selected by the public accountant and disclosed in the assurance report,

iii. for each day referred to in subparagraph (i), management's assertion includes all of the following:

1. details of the composition of the reserve of assets,

2. the fair value of the reserve of assets in subparagraph (1)(e)(i), and

3. the quantity of all outstanding units of the Value-Referenced Crypto Asset in paragraph (b),

iv. the assurance report is prepared in accordance with the Handbook, International Standards on Assurance Engagements or attestation standards established by the American Institute of Certified Public Accountants;

k. starting with the first financial year ending after December 1, 2023, within 120 days of the issuer of the Value-Referenced Crypto Asset's financial year end, annual financial statements of the issuer of the Value-Referenced Crypto Asset that comply with all of the following:

i. the annual financial statements include all of the following:

1. a statement of comprehensive income, a statement of changes in equity and a statement of cash flows, each prepared for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any,

2. a statement of financial position, signed by at least one director of the issuer of the Value-Referenced Crypto Asset, as at the end of the most recently completed financial year

and the financial year immediately preceding the most recently completed financial year, if any, and

3. notes to the financial statements;

ii. the statements are prepared in accordance with one of the following accounting principles:

1. Canadian GAAP applicable to publicly accountable enterprises, and

2. U.S. GAAP;

iii. the statements are audited in accordance with one of the following auditing standards:

1. Canadian GAAS,

2. International Standards on Auditing,

3. U.S. PCAOB GAAS;

iv. the statements are accompanied by an auditor's report that:

1. if (iii)(1) or (2) applies, expresses an unmodified opinion,

2. if (iii)(3) applies, expresses an unqualified opinion,

3. identifies the auditing standards used to conduct the audit, and

4. is prepared and signed by a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America.

3. The Crypto Asset Statement includes all of the following:

a. a prominent statement that no securities regulatory authority or regulator in Canada has evaluated or endorsed the Crypto Contracts or any of the Crypto Assets made available through the platform;

b. a prominent statement that the Value-Referenced Crypto Asset is not the same as and is riskier than a deposit in a bank or holding cash with the Filer;

c. a prominent statement that although Value-Referenced Crypto Assets may be commonly referred to as "stablecoins", there is no guarantee that the Value-Referenced Crypto Asset will maintain a stable value when traded on secondary markets or that the reserve of assets will be adequate to satisfy all redemptions;

d. a prominent statement that, due to uncertainties in the application of bankruptcy and insolvency law, in the event of the insolvency of [Value-Referenced Crypto Asset issuer], there is a possibility that creditors of [Value-Referenced Crypto Asset issuer] would have rights to the reserve assets that could outrank a Value-Referenced Crypto Asset holder's rights, or otherwise interfere with a Value-Referenced Crypto Asset holder's ability to access the reserve of assets in the event of insolvency;

e. a description of the Value-Referenced Crypto Asset and its issuer;

f. a description of the due diligence performed by the Filer with respect to the Value-Referenced Crypto Asset;

g. a brief description of the information in section (2) and links to where the information in that section is publicly available;

h. a link to where on its website the issuer of the Value-Referenced Crypto Asset will disclose any event that has or is likely to have a significant effect on the value of the Value-Referenced Crypto Asset or on the reserve of assets;

i. a description of the circumstances where the secondary market trading value of the Value-Referenced Crypto Asset may deviate from par with the reference fiat currency and details of any instances where the secondary market trading value of the Value-Referenced Crypto Asset has materially deviated from par with the reference fiat currency during the last 12 months on the Filer's platform;

j. a brief description of any risks to the client resulting from the trading of a Value-Referenced Crypto Asset or a Crypto Contract in respect of a Value-Referenced Crypto Asset that may not have been distributed in compliance with securities laws;

k. any other risks specific to the Value-Referenced Crypto Asset, including the risks arising from the fact that the Filer may not, and a client does not, have a direct redemption right with the issuer of the Value-Referenced Crypto Asset;

l. a direction to the client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets made available through the platform;

m. a statement that the statutory rights in section 130.1 of the Act and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in the Decision;

n. the date on which the information was last updated.

4. If the Filer uses the term "stablecoin" or "stablecoins" in any information, communication, advertising or social media related to the Platform and targeted at or accessible by Canadian investors, the Filer will also include the following statement (or a link to the following statement when impractical to include):

> "Although the term "stablecoin" is commonly used, there is no guarantee that the asset will maintain a stable value in relation to the value of the reference asset when traded on secondary markets or that the reserve of assets, if there is one, will be adequate to satisfy all redemptions."

5. The issuer of the Value-Referenced Crypto Asset has filed an undertaking acceptable to the CSA in substantially the same form as set out in Appendix B of CSA Notice 21-333 *Crypto Asset Trading Platforms: Terms and Conditions for Trading Value-Referenced Crypto Assets with Clients* (**CSA SN 21-333**).

6. The KYP Policy of the Filer requires the Filer to assess whether the Value-Referenced Crypto Asset or the issuer of the Value-Referenced Crypto Asset satisfies the criteria in sections (1), (2) and (5) of this Appendix on an ongoing basis.

7. The Filer has policies and procedures to facilitate halting or suspending deposits or purchases of the Value-Referenced Crypto Asset, or Crypto Contracts in respect of the Value-Referenced Crypto Asset, as quickly as is commercially reasonable, if the Value-Referenced Crypto Asset no longer satisfies the criteria in sections (1), (2) and (5) of this Appendix.

In this Appendix, terms have the meanings set out in Appendix D of CSA SN 21-333.

APPENDIX D - DATA REPORTING

1. Commencing with the quarter ending December 31, 2023, the Filer will deliver the following information to the Principal Regulator and each of the Coordinated Review Decision Makers in an agreed form and manner specified by the Principal Regulator and each of the Coordinated Review Decision Makers with respect to clients residing in the Jurisdiction of such Coordinated Review Decision Maker, within 30 days of the end of each March, June, September and December.

    a. aggregate reporting of activity conducted pursuant to the Platform's operations that will include the following:

        i. number of Client Accounts opened each month in the quarter;

        ii. number of Client Accounts frozen or closed each month in the quarter;

        iii. number of Client Account applications rejected by the platform each month in the quarter based on the account appropriateness factors described in representation 35(b);

        iv. number of trades each month in the quarter;

        v. average value of the trades in each month in the quarter;

        vi. number of Client Accounts with a net acquisition cost greater than $30,000 of Crypto Assets at the end of each month in the quarter;

        vii. number of Client Accounts that in the preceding 12 months, excluding Specified Crypto Assets, exceeded a net acquisition cost of $30,000 at the end of each month in the quarter;

        viii. number of Client Accounts at the end of each month in the quarter;

        ix. number of Client Accounts with no trades during the quarter;

        x. number of Client Accounts that have not been funded at the end of each month in the quarter; and

        xi. number of Client Accounts that hold a positive amount of Crypto Assets at end of each month in the quarter; and

        xii. number of Client Accounts that exceeded their Client Limit at the end of each month in the quarter.

    b. the details of any client complaints received by the Filer during the calendar quarter and how such complaints were addressed;

    c. a listing of all blockchain addresses, except for deposit addresses, that hold Crypto Assets on behalf of clients, including all hot and cold wallets;

    d. the details of any fraudulent activity or cybersecurity incidents on the Platform during the calendar quarter, any resulting harms and effects on clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future; and

    e. the details of the transaction volume per Liquidity Provider, per Crypto Asset during the quarter.

2. The Filer will deliver to the Principal Regulator and each of the Coordinated Review Decision Makers, in an agreed form and manner specified by the Principal Regulator and each of the Coordinated Review Decision Makers, a report that includes the anonymized account-level data for the Platform's operations for each client residing in the Jurisdiction of such Coordinated Review Decision Maker, within 30 days of the end of each March, June, September and December for data elements outlined in Appendix E.

APPENDIX E - DATA ELEMENT DEFINITIONS, FORMATS AND ALLOWABLE VALUES

Number	Data Element Name	Definition for Data Element[1]	Format	Values	Example
Data Elements Related to each Unique Client					
1	Unique Client Identifier	Alphanumeric code that uniquely identifies a customer.	Varchar(72)	An internal client identifier code assigned by the CTP to the client. The identifier must be unique to the client.	ABC1234
2	Unique Account Identifier	Alphanumeric code that uniquely identifies an account.	Varchar(72)	A unique internal identifier code which pertains to the customer's account. There may be more than one Unique Account Identifier linked to a Unique Client Identifier.	ABC1234
3	Jurisdiction	The Province or Territory where the client, head office or principal place of business is, or under which laws the client is organized, or if an individual, their principal place of residence.	Varchar(5)	Jurisdiction where the client is located using ISO 3166-2 - See the following link for more details on the ISO standard for Canadian jurisdictions codes. https://www.iso.org/obp/ui/#iso:code:3166:CA	CA-ON
Data Elements Related to each Unique Account					
4	Account Open Date	Date the account was opened and approved to trade.	YYYY-MM-DD, based on UTC	Any valid date based on ISO 8601 date format	2022-10-27
5	Cumulative Realized Gains/Losses	Cumulative Realized Gains/Losses from purchases, sales, deposits, withdrawals and transfers in and out, since the account was opened as of the end of the reporting period.	Num(25,0)	Any value rounded to the nearest dollar in CAD. Use the market value at the time of transfers in, transfers out, deposits and withdrawals of the Digital Token to determine the cost basis or the realized gain or loss.	205333
6	Unrealized Gains/Losses	Unrealized Gains/Losses from purchases, deposits and transfers in as of the end of the reporting period.	Num(25,0)	Any value rounded to the nearest dollar in CAD. Use the market value at the time of transfers in or deposits of the Digital Token to determine the cost basis.	-30944
7	Digital Token Identifier	Alphanumeric code that uniquely identifies the Digital Token held in the account.	Char(9)	Digital Token Identifier as defined by ISO 24165. See the following link for more details on the ISO standard for Digital Token Identifiers. https://dtif.org/	4H95J0R2X

[1] Note: Digital Token refers to either data associated with a Digital Token, or a Digital Token referenced in an investment contract.

Number	Data Element Name	Definition for Data Element[1]	Format	Values	Example
Data Elements Related to each Digital Token Identifier Held in each Account					
8	Quantity Bought	Number of units of the Digital Token bought in the account during the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	4358.326
9	Number of Buy Transactions	Number of transactions associated with the Quantity Bought during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	400
10	Quantity Sold	Number of units of the Digital Token sold in the account during the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	125
11	Number of Sell Transactions	Number of transactions associated with the Quantity Sold during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	3325
12	Quantity Transferred In	Number of units of the Digital Token transferred into the account during the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	10.928606
13	Number of Transactions from Transfers In	Number of transactions associated with the quantity transferred into the account during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	3
14	Quantity Transferred Out	Number of units of the Digital Token transferred out of the account during the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	603
15	Number of Transactions from Transfers Out	Number of transactions associated with the quantity transferred out of the account during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	45
16	Quantity Held	Number of units of the Digital Token held in the account as of the end of the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	3641.25461
17	Value of Digital Token Held	Value of the Digital Token held as of the end of the reporting period.	Num(25,0)	Any value greater than or equal to zero rounded to the nearest dollar in CAD. Use the unit price of the Digital Token as of the last business day of the reporting period multiplied by the quantity held as reported in (16).	45177788

Number	Data Element Name	Definition for Data Element[1]	Format	Values	Example
18	Client Limit	The Client Limit established on each account.	Num(25,2)	Any value greater than or equal to zero rounded to the nearest dollar in CAD, or if a percentage, in decimal format.	0.50
19	Client Limit Type	The type of limit as reported in (18).	Char(3)	AMT (amount) or PER (percent).	PER

B.3.4 Bitbuy Technologies Inc.

Headnote

Application for time-limited extension of relief from certain prospectus, trade reporting, and marketplace requirements – interim extension of relief to allow the Filer to distribute Crypto Contracts and operate a platform that facilitates the buying, selling, staking and holding of Crypto Assets – interim extension of relief granted subject to certain conditions and business restrictions – relief is time-limited and will expire upon the earlier of August 31, 2024 or the date the Filer transitions its client accounts to its Canadian Investment Regulatory Organization member affiliate – relief granted based on the particular facts and circumstances of the application with the objective of fostering innovation in Canada – decision should not be viewed as precedent for other filers.

Statute cited

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

Instrument, Rule or Policy cited

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 21-101 Marketplace Operation.
National Instrument 23-101 Trading Rules.
National Instrument 23-103 Electronic Trading and Direct Access to Marketplaces.
OSC Rule 91-506 Derivatives: Product Determination, ss. 2 and 4.
OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Part 3.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO,
ALBERTA,
BRITISH COLUMBIA,
MANITOBA,
NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR,
NORTHWEST TERRITORIES,
NOVA SCOTIA,
NUNAVUT,
PRINCE EDWARD ISLAND,
QUÉBEC,
SASKATCHEWAN,
AND
YUKON

AND

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

AND

IN THE MATTER OF
BITBUY TECHNOLOGIES INC.
(the Filer)

DECISION

Background

As set out in Canadian Securities Administrators (**CSA**) Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* and Joint CSA/Investment Industry Regulatory Organization of Canada Staff Notice 21-329 *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements*, securities legislation applies to crypto asset trading platforms (**CTPs**) that facilitate or propose to facilitate the trading of instruments or contracts involving anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual token (a **Crypto Asset**) because the user's contractual right to the Crypto Asset may itself constitute a security and/or a derivative (**Crypto Contract**).

To foster innovation and respond to novel circumstances, the CSA have considered an interim, time-limited registration that would allow CTPs to operate within a regulated environment, with regulatory requirements tailored to the CTP's operations. The overall goal of the regulatory environment is to ensure there is a balance between the need to be flexible and facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer is currently approved to operate a marketplace and is registered in the category of restricted dealer in the Applicable Jurisdictions (as defined below). In connection with its registration as a restricted dealer, the Filer previously applied for and received exemptive relief in decisions dated November 30, 2021 and November 30, 2023.

Under the terms and conditions of the decision *In the Matter of Bitbuy Technologies Inc.* dated November 30, 2023 (the **Amending Decision**), the Filer has operated, and continues to operate, on an interim basis, a platform (the **Platform**) that permits clients resident in Canada to enter into Crypto Contracts with the Filer to purchase, sell, hold, stake, deposit and withdraw Crypto Assets.

The exemptive relief granted under the Amending Decision expires on May 30, 2024.

The Filer has submitted an application to extend the Amending Decision in order to continue to operate the Platform on an interim basis until the client accounts of the Filer are transferred to Coinsquare Capital Markets Ltd. (**CCML**).

This decision (the **Decision)** has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authorities or regulators will not consider this Decision as constituting a precedent.

Relief Requested

The securities regulatory authority or regulator in Ontario (the **Jurisdiction**) has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) extending the time-limited exemption of the Filer from the prospectus requirements under the Legislation in respect of the Filer entering into Crypto Contracts with clients to purchase, hold, sell, deposit, withdraw and stake Crypto Assets (the **Prospectus Relief**).

The securities regulatory authority or regulator in the Jurisdiction and each of the other jurisdictions that has adopted the rules referred to in Appendix A, as applicable (collectively, the **Coordinated Review Decision Makers**), have received an application from the Filer for a decision under the securities legislation of those jurisdictions exempting the Filer from:

(1) certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**); and

(2) except in British Columbia, New Brunswick, Saskatchewan and Nova Scotia, the Marketplace Rules (as defined in Appendix A) (the **Marketplace Relief**).

Collectively, the Prospectus Relief, the Trade Reporting Relief and the Marketplace Relief are referred to herein as the **Requested Relief**).

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

(1) the Ontario Securities Commission is the principal regulator for this application (the **Principal Regulator**);

(2) in respect of the Prospectus Relief, the Filer has provided notice that, in the jurisdictions where required, 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 (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**); and

(3) the decision in respect of the Trade Reporting Relief and the Marketplace Relief is the decision of the Principal Regulator and evidences the decision of each applicable Coordinated Review Decision Maker.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, Canadian securities legislation, and the Amending Decision 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 registered as a dealer in the category of restricted dealer with the Applicable Jurisdictions.

2. The Filer operates the Platform, which enables clients to buy, sell, hold, stake, deposit, and withdraw Crypto Assets through the Platform.

3. On November 30, 2021, the Filer was granted relief from certain prospectus, trade reporting and marketplace requirements applicable to the Filer in connection with the operation of the Platform, subject to certain terms and conditions. The relief was varied and extended on November 30, 2023 until May 30, 2024 in the Amending Decision.

4. Subject to the Decision being granted prior to the expiry of the Amending Decision, and subject to the Filer delivering audited financial statements for the year ended on December 31, 2023 to the Principal Regulator prior to the date of this Decision, the Filer is not in default of securities legislation of any jurisdiction of Canada.

5. The Amending Decision was granted based on representations from the Filer that client accounts would be transitioned to CCML prior to the expiry of the Amending Decision (the **Transition**).

6. While the Filer has been actively and diligently working with CCML and the Canadian Investment Regulatory Organization (**CIRO**) to effect the Transition of the client accounts of the Filer to CCML, the Filer seeks a short-term extension of the Amending Decision to account for the possibility that the Transition may be completed after the expiry of the Amending Decision despite the Filer's efforts to complete the Transition by May 30, 2024.

7. Since the date of the Amending Decision, the Filer has made the following efforts to complete the Transition of client accounts to CCML:

   (a) Engaging with CCML to determine differences in operating procedures between the Filer and CCML;

   (b) Working with CCML to establish the technical requirements necessary to effect the Transition of the client accounts;

   (c) Coordinating with CCML on developing a staking program and relationships with custodial and other vendor partners to reduce potential issues with the Transition of the client accounts;

   (d) Harmonizing back-office and record keeping functions;

   (e) Holding regular meetings with, and providing submissions to, CIRO about the Transition; and

   (f) Notifying the Filer's clients and other key stakeholders regarding the anticipated Transition of the Filer's client accounts to CCML.

8. The Filer has provided and will continue to provide the Principal Regulator with regular and timely updates relating to the Transition of the Filer's client accounts to CCML.

9. This Decision is based on the same representations as were made by the Filer in the Amending Decision, which remain true and complete to the extent not modified by the representations in this Decision.

Decision

The Principal Regulator is satisfied that the Decision satisfies the test set out in the Legislation for the Principal Regulator to make the Decision and each Coordinated Review Decision Maker is satisfied that the Decision in respect of the Trade Reporting Relief and the Marketplace Relief, as applicable, satisfies the tests set out in the securities legislation of its jurisdiction for the Coordinated Review Decision Maker to make the Decision in respect of the Trade Reporting Relief and the Marketplace Relief, as applicable.

The Decision of the Principal Regulator under the Legislation is that the Amending Decision is revoked, and the Requested Relief is granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation in its jurisdiction is that the Trade Reporting Relief and the Marketplace Relief, as applicable, is granted, provided that and for so long as the Filer complies with the following terms and conditions:

A. The Filer complies with all of the terms and conditions of the Amending Decision as if the Amending Decision had not expired on May 30, 2024, except as amended by this Decision.

B. The Filer continues to make best efforts to complete the client account Transition as soon as possible.

C. Condition Y(b)(ii) of the Amending Decision is amended such that, by October 31, 2024, the Filer will no longer allow clients to buy or deposit fiat-backed crypto assets (**FBCAs**), or to enter into Crypto Contracts to buy or deposit FBCAs, that do not comply with the terms and conditions set out in Appendix C of the Amending Decision.

D. No new accounts are opened for existing or for new clients of the Filer as of May 31, 2024.

E. This Decision shall expire on the earlier of:

(i) August 31, 2024; or

(ii) the date on which the Transition of all client accounts from the Filer to CCML is complete.

F. The Filer will cease any clearing activities or marketplace activities, including anything requiring Marketplace Relief, after the Transition and, in any event, no later than the date of expiry of this Decision.

G. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer in accordance with applicable securities legislation.

DATED this 30th day of May, 2024.

"Susan Greenglass"
Senior Vice President, Trading and Markets
Ontario Securities Commission

APPENDIX A

LOCAL TRADE REPORTING RULES AND MARKETPLACE RULES

In this Decision,

a) the "Local Trade Reporting Rules" collectively means each of the following:

(1) Part 3, Data Reporting of Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting (**OSC Rule 91-507**);

(2) Part 3, Data Reporting of Manitoba Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting (**MSC Rule 91-507**); and

(3) Part 3, Data Reporting of Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**); and

b) the "Marketplace Rules" collectively means each of the following:

(1) National Instrument 21-101 – *Marketplace Operation* (**NI 21-101**) in whole;

(2) National Instrument 23-101 – *Trading Rules* (**NI 23-101**) in whole; and

(3) National Instrument 23-103 – *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) in whole.

B.3.5 Sprott Asset Management LP and Sprott Physical Copper Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exchange-traded non-redeemable investment fund investing substantially all of its assets in physical copper metal exempted from the custodian requirements of subsection 6.1(1) and sections 6.2 and 6.3 of NI 81-102 to permit specialized warehouse providers with storage facilities located in the Netherlands, Belgium, Germany, Spain, Sweden, Italy, the U.S., Canada, the United Arab Emirates, Singapore, South Korea and Malaysia to each act as custodian of the fund's copper metal – Relief subject to conditions, including that the copper metal is stored with three specified warehouse providers in LME or CME approved warehouses in the storage jurisdictions, that the copper metal stored with the warehouse provider be 100% insured against loss, theft and damage, and that a single entity, to be the valuation agent, complete daily reconciliations amongst the warehouse providers and the custodian of the fund's assets other than copper before calculating the NAV of the Fund – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 6.1(1), 6.2, 6.3 and 19.1.

May 30, 2024

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
SPROTT ASSET MANAGEMENT LP
(the Filer)

AND

SPROTT PHYSICAL COPPER TRUST
(the Trust)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, in its capacity as the manager of the Trust, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**), in connection with the formation and offering of the securities of a new non-redeemable investment fund trust to be established and managed by the Filer, for relief pursuant to Section 19.1 of National Instrument 81-102 – *Investment Funds* (**NI 81-102**), that the Filer and the Trust be exempt from Subsection 6.1(1) and Sections 6.2 and 6.3 of NI 81-102, to permit warehouse facilities owned and operated by well-established leading warehouse providers that are highly specialized, qualified and certified in the provision of physical base metal warehousing services (any one, a **Warehouse Provider**, collectively the **Warehouse Providers**) to act as custodians of the Copper (as defined below) owned by the Trust, both inside and outside Canada (the **Requested Relief**).

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

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

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

Interpretation

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

In this decision, the "total net assets" of the Trust means the NAV of the Trust determined in accordance with Part 14 of National Instrument 81-106 – *Investment Fund Continuous Disclosure*.

Representations

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

The Filer and the Trust

1. The Filer is a limited partnership formed and organized under the laws of the Province of Ontario and maintains its head office in Toronto, Ontario. The general partner of the Filer is Sprott Asset Management GP Inc. (the **General Partner**), which is a corporation incorporated under the laws of the Province of Ontario. The General Partner is a wholly-owned, direct subsidiary of Sprott Inc. (**SII**). SII is a corporation incorporated under the laws of the Province of Ontario and is a public company with its common shares listed on the Toronto Stock Exchange (**TSX**) and the New York Stock Exchange. SII is the sole limited partner of the Filer and the sole shareholder of the General Partner.

2. The Filer is registered under the securities legislation in Ontario as an adviser in the category of portfolio manager and in Ontario, Quebec, and Newfoundland and Labrador as an investment fund manager.

3. The Trust will be a non-redeemable investment fund established as a trust under the laws of the Province of Ontario pursuant to a trust agreement (the **Trust Agreement**). Pursuant to the Trust Agreement, a licensed trust company will be the trustee (**Trustee**) and the Filer will be the manager (**Manager**), respectively, of the Trust. The Trust will be formed for the purposes of investing and holding substantially all of its assets in physical copper metal (**Copper**). The Trust will only purchase and hold Copper of the standard that the major exchanges accept. This is called Grade 1 Copper cathodes for the Chicago Mercantile Exchange (**CME**) and Grade A Copper cathodes for the London Metal Exchange (**LME**).

4. The Filer will act as the Manager of the Trust pursuant to the Trust Agreement and a management agreement to be entered into between the Trust and the Filer (the **Management Agreement**).

5. The Filer currently manages other Sprott investment funds and physical commodity funds, such as Sprott Physical Gold Trust, Sprott Physical Silver Trust, Sprott Physical Platinum and Palladium Trust, Sprott Physical Gold and Silver Trust, and Sprott Physical Uranium Trust.

6. The Filer will appoint a registrar and transfer agent of the Trust pursuant to a transfer agent, registrar and disbursing agent agreement prior to the closing of the initial public offering (the **Offering**) of units of the Trust (**Units**).

7. In connection with the Offering, a preliminary long form prospectus will be filed with the securities regulatory authorities in each of the provinces and territories of Canada (collectively, the **Canadian Jurisdictions**) and the Trust intends to become a reporting issuer, or the equivalent thereof, in such Canadian Jurisdictions following the filing of a final prospectus in respect of the Offering.

8. The Trust intends to list its Units on the TSX.

9. The Trust will be a "non-redeemable investment fund" as such term is defined in the *Securities Act* (Ontario) and is subject to the investment restrictions applicable to such funds that are prescribed by NI 81-102. The Filer will establish an independent review committee for the Trust in accordance with the requirements under National Instrument 81-107 – *Independent Review Committee for Investment Funds*.

10. The Filer is not in default of securities legislation in the Canadian Jurisdictions.

The Trust's Investment Objective, Strategy, and Investment and Operating Restrictions

11. The Trust will invest and hold substantially all of its assets in Copper. The Trust will seek to provide a convenient and exchange-traded investment alternative for investors interested in holding Copper without the inconvenience that is typical of a direct investment in Copper. The Trust does not anticipate making regular cash distributions to unitholders of the Trust (the **Unitholders**).

12. The Trust intends to achieve its objective by investing primarily in long-term holdings of Copper, for which the Filer expects demand (growth) to be predominantly driven by the anticipated increase in the use of renewable energy applications.

13. The Filer will engage a technical advisor (**Technical Advisor**) that has a team with specialized knowledge and experience in trading, storing and handling of Copper to assist the Filer in fulfilling the Trust's investment objectives and strategy.

14. The Trust intends to use at least 90% of the net proceeds of the Offering to acquire Copper as soon as practicable following the closing of the Offering.

15. The Trust's net asset value (**NAV**) will be calculated through the value of Copper that the Trust holds in addition to the Trust's cash reserves. Copper is a commodity that can be readily purchased and disposed of through market facilities and therefore is not an "illiquid asset" (as defined in NI 81-102).

16. The Trust intends to achieve its objective by investing primarily in long-term holdings of Copper and will not speculate with regard to short-term changes in Copper prices. The Trust may occasionally use futures, warrants, LME and CME warehouse receipts and other financial instruments ("collectively, **Financial Instruments**) to complement the Trust's Copper procurement strategy to ensure, as appropriate, that physical exposure is secured while locking in corresponding pricing, until the near-term delivery of Copper into the holdings of the Trust. The Trust may occasionally enter into transactions intended to (a) enhance, or maintain, the value of its holdings of Copper or (b) optimize Copper holdings and Trust operating costs. The Trust may occasionally lend out Copper to other market participants, of sufficient credit quality and/or with appropriate credit enhancing measures, in exchange for a lending fee. The Filer expects to, from time to time, make use of Financial Instruments in the form of futures and/or warrants on the LME or CME (1) in the case of futures to temporarily hedge price risk of underlying physical index-linked (LME) procurement and (2) in the case of warrants, for complementary physical procurements.

17. The investment and operating restrictions of the Trust will provide that the Trust will invest in and hold a minimum of 90% of the total net assets of the Trust in Copper (whether in physical form or through Financial Instruments) and invest in and hold no more than 10% of the total net assets of the Trust, at the discretion of the Filer, in debt obligations of or guaranteed by the Government of Canada or a province thereof, or by the Government of the United States of America or a state thereof, short-term commercial paper obligations of a corporation or other person whose short-term commercial paper is rated R-1 (or its equivalent, or higher) by DBRS Limited or its successors or assigns or F-1 (or its equivalent, or higher) by Fitch Ratings or its successors or assigns or A-1 (or its equivalent, or higher) by Standard & Poor's or its successors or assigns or P-1 (or its equivalent, or higher) by Moody's Investor Service or its successors or assigns, interest-bearing accounts and short-term certificates of deposit issued or guaranteed by a Canadian chartered bank or trust company, money market mutual funds, short-term government debt or short-term investment grade corporate debt, or other short-term debt obligations approved by the Filer from time to time (for the purpose of this paragraph, the term "short-term" means having a date of maturity or call for payment not more than 182 days from the date on which the investment is made), except during the 60-day period following the closing of offerings of Units or prior to the distribution of the assets of the Trust.

18. The Trust intends to primarily own Copper that is in physical form, which will be stored on its behalf at Warehouse Providers appointed by the Manager, pursuant to storage agreements or other types of contracts or arrangements consistent with industry standards (each such agreement, contract or arrangement, a **Storage Agreement**).

19. The Trust will offer a limited redemption feature. Unitholders will have a semi-annual right, subject to certain restrictions and limits, to redeem their Units for cash or Copper.

Net Asset Value of the Trust, Liquidity and Pricing of Copper

20. The NAV of the Trust and NAV per Unit will be calculated on a daily basis as of 4:00 p.m. (Toronto time) (the **Valuation Time**) on each day on which the TSX, or any U.S. stock exchange on which the Units are listed, is open for trading (the **Valuation Date**), by the Trust's valuation agent, which valuation agent is expected to be the Trustee or an affiliate of the Trustee. The NAV of the Trust as at the Valuation Time on each Valuation Date shall be the amount obtained by deducting from the aggregate fair market value of the assets of the Trust as of such Valuation Date an amount equal to the fair value of the liabilities of the Trust (excluding all liabilities represented by outstanding Units) as of such Valuation Date. The NAV per Unit will be determined by dividing the NAV of the Trust on a Valuation Date by the total number of Units then outstanding. In calculating the NAV of the Trust and NAV per Unit, the valuation agent will reconcile all the portfolio assets of the Trust and will complete daily reconciliations amongst the Warehouse Providers holding the Trust's Copper and the custodian (described in paragraph 27) holding the Trust's assets other than Copper. The valuation agent will receive input as required from any investment manager, the Technical Advisor, the Warehouse Providers and the custodian of the Trust, as applicable. The Filer will remain responsible for overseeing the valuation agent's calculation of the NAV of the Trust and NAV per Unit.

21. Pursuant to the Offering, the Filer expects that Units will be offered at a price equal to $10.00 per Unit. The Trust may not issue additional Units of the same class following the completion of the Offering, except: (i) if the net proceeds per Unit to be received by the Trust are not less than 100% of the most recently calculated Net Asset Value per Unit immediately prior to, or upon, the determination of the pricing of such issuance; or (ii) by way of Unit distribution in connection with an income distribution.

22. The fair market value of the assets of the Trust will be determined based on reported Copper spot prices from one, or more, credible, market leading commodity exchanges to determine the copper base price and independent price reporters to determine the applicable copper premium to be added on top of the copper base price (the **Price Reporters**) that are most commonly used by the market subject to adjustment, as described in paragraph 23 below. The Price Reporters are private business organizations that offer subscription services to which most Copper market participants subscribe and the spot prices reported by such Price Reporters are used by such market participants as a basis on which to negotiate or settle contracted prices for Copper. The principal Price Reporters whose services the Filer is currently considering are Fastmarkets MB, S&P Platts, CRU and Argus, in addition to the LME. The LME, the largest base metals commodity exchange in the world, is a regulated commodities exchange in the United Kingdom and provides public pricing information for base prices on Copper metal. The Filer may use the LME prices or may determine to use a different Price Reporter (or Price Reporters) from those listed above, depending on the results of negotiations with such Price Reporters and any changes in market conditions.

23. Copper base prices are reported daily on the LME. Specific copper premiums are reported on a daily, weekly or bi-weekly basis and are reported for, amongst other characteristics, different locations.

24. If the Trust purchases Copper in a location or with other characteristics for which none of the Price Reporters report a spot price, the Trust will use the best available alternative spot price, as determined by the Manager and the Technical Advisor, to determine the fair market value of such Copper.

25. The Filer expects the Trust to purchase most of the Copper directly over-the-counter, by entering into bilateral physical spot purchase and sale contracts with sellers, as that type of market should provide the most liquidity. The sellers are typically producers, traders, and banks. Generally, the trades would be settled by payment by the Trust upon release of Copper by the Warehouse Provider to the Trust. The LME has financially settled contracts for copper metal. The Filer may use these financial products in the future to help with the Trust's procurement strategy, specifically, to manage short-term price movements of Copper until the completion of the corresponding physical deliveries of Copper to the Trust's holdings.

26. Copper is traded in a similar manner with other commodities including precious metals and non-precious metals in over-the-counter transactions, with an observable base price published daily by exchanges and premium prices bilaterally agreed upon, which is captured in price references provided by Price Reporters. In most cases, the spot price reflects the most recently traded price and/or anticipated next transaction, but the spot price may deviate from the trade price as a result of a number of factors, including delivery location, origin, form, quantity, quality, counterparty and other factors.

The Trust's Custody Arrangements

27. The Trustee (or another entity that is qualified to act as a custodian under section 6.2 of NI 81-102) will act as the custodian of the assets of the Trust, other than Copper, pursuant to the Trust Agreement. The Trustee will only be responsible for the assets of the Trust that are directly held by the Trustee, its affiliates or its appointed sub-custodians.

28. The Trust anticipates that Copper will constitute in excess of 90% of the Trust's NAV and, consequently, the Warehouse Providers will hold substantially all of the assets of the Trust. The Trustee, as custodian of the Trust, will hold only the assets of the Trust other than Copper and, consequently, the division of the assets of the Trust will be clearly distinguished and will be separated by the respective areas of expertise of these custodians. As the investment objective and strategy of the Trust is to invest primarily in long-term holdings of Copper, the Trust will not be actively selling Copper held in the custody of the Warehouse Providers, except in cases where funds are required to pay the ongoing expenses of the Trust or to fund cash redemptions. Accordingly, the Trust's Copper held in the custody of the Warehouse Providers will generally remain fixed from day-to-day, with the exception of incrementally purchased quantities that will add to the Trust's balance of Copper in accordance with the Trust's purchasing activities.

29. Pursuant to the Trust Agreement and the Management Agreement, Copper owned by the Trust will be fully allocated and stored by Warehouse Providers with which the Trust will enter into Storage Agreements to store such Copper. The Trust will store its Copper with Warehouse Providers that are reputable and exclusively in warehouses that are LME or CME approved, which are the main global market standards for physical metal warehousing services that are accepted by market participants and financiers. The LME approves warehouses pursuant to its *LME Policy on Approval of Locations at Delivery Points*. To obtain such approval, the Warehouse Provider must satisfy the LME that the proposed warehouse location is safe, well managed, politically and economically stable, commercially sensible, fiscally appropriate, legally sound, not subject to corruption, and that the metal belonging to the owner can be removed in case of bankruptcy or insolvency of the Warehouse Provider. Similar to the LME, the CME approves warehouses for the storage of base metals pursuant to the *CME Group Delivery Facilities and Procedures* and audits warehouses' compliance with such requirements to maintain such approval. By virtue of LME and CME policies, an individual warehouse location cannot simultaneously have both LME and CME approved status.

30. The Trust will only store Copper with such Warehouse Providers at locations in the Netherlands, Belgium, Germany, Spain, Sweden, Italy, the United States, Canada, the United Arab Emirates, Singapore, South Korea and Malaysia (the

Storage Jurisdictions). The Storage Jurisdictions are all advanced economies with regulations similar to those in Canada.

31. The Trust is not expected to meet the requirement in subsection 6.1(1) of NI 81-102 for the portfolio assets of the Trust to be held under the custodianship of one custodian that satisfies the requirements of section 6.2. Due to the physical form and location of Copper, the manner in which Copper purchases and sales are settled (as described in paragraph 25), and the fact that entities qualified to act as custodians under NI 81-102 are generally deposit-taking institutions that can only hold cash or securities, it is necessary for the Trust to retain several custodians, including one custodian to hold the cash and securities of the Trust, and several Warehouse Providers in the Storage Jurisdictions to hold Copper. While the custodian of the Trust's cash and securities will meet the requirements of sections 6.2 and 6.3 of NI 81-102, the Warehouse Providers who will hold the Trust's Copper will not satisfy those requirements as they will not be a banking institution or trust company but rather will be leading warehouse providers that are highly specialized, qualified and certified to store Copper.

32. While the Warehouse Providers are not generally expected to meet the capitalization requirements in section 6.3 of NI 81-102, the Filer will mitigate risks associated with such lack of capitalization by maintaining, at all times, a separate, market standard insurance policy that insures 100% of the Copper held with the Warehouse Providers for its full value. This arrangement is in accordance with the industry standards for transactions in, and the storage of, Copper. In addition, in connection with becoming an LME or CME approved warehouse, Warehouse Providers must have market standard insurance in place that insures the Copper they are storing. The Filer will further mitigate this risk by only entering into Storage Agreements with Warehouse Providers that are large, well-regarded multi-national entities, namely Access World, C. Steinweg Handelsveem and P Global Services, which are the three (3) largest Warehouse Providers in terms of global LME and/or CME approved storage capacity of Copper.

33. The Filer believes that the selection of the three (3) largest Warehouse Providers in terms of aggregate global LME and CME approved storage capacity, supplemented by the insurance combination noted in paragraph 32, represents best practices and exceeds industry standard in connection with the storage, financing and trade of Copper.

34. The safekeeping of Copper is a specialized business in respect of which the Warehouse Providers have specialized knowledge and experience. Globally, there are a limited number of LME or CME approved warehouses available to Copper market participants. These warehouses and corresponding Warehouse Providers are used by suppliers, buyers and commodity traders for their storage needs. Accordingly, the Filer considers the Trust's risk in respect of its ownership and storage of Copper to be no greater than that of any other participant in the Copper industry. The Filer further believes this risk should always be regarded in conjunction with the additional protections the Trust will have, including the insurance policy described in paragraph 32. The combination of Storage Agreements with insurance is the industry standard from a security perspective for trading, logistics and financing related transactions for Copper in addition to a range of other metals and soft-commodities.

35. Under the Storage Agreement(s), the Warehouse Provider will receive Copper specified in a notice delivered by the Manager to the Warehouse Provider that indicates the amount, weight, type, form, origin, characteristics and packaging condition of Copper that is to be stored with the Warehouse Provider. After verification, the Warehouse Provider will issue a "warehouse receipt" that confirms the information from the notice. In the event of discrepancy arising during the verification process, the Warehouse Provider will promptly notify the Manager. Copper owned by the Trust and stored at the Warehouse Providers will be segregated and identifiable at all times as belonging to the Trust, either by lot numbers (when stored in a common location) or by location (when stored in a location that is exclusively for the Trust). Under each Storage Agreement, Copper stored with the applicable Warehouse Provider will be required to be evidenced in an account maintained by the Warehouse Provider for the Trust, and the Warehouse Provider will be required to provide a written settlement statement no less frequently than each quarter indicating the type and amount of Copper owned by the Trust. The Filer and Technical Advisor expect to have inspection and audit rights, including with respect to the Warehouse Provider's inventory management system that keeps track of the Trust's inventory of Copper. Pursuant to the Storage Agreement(s), title to stored Copper will remain with the Trust, as the owner, and does not form part of the Warehouse Provider's assets. As such, in the event of an insolvency or other event at a Warehouse Provider, ownership of Copper will remain with the Trust.

36. Before entering into any Storage Agreement, the Filer, or the Technical Advisor on the Filer's behalf, will conduct due diligence on the respective Warehouse Provider, including the following analysis that are necessary to complete a risk profile in respect of such Warehouse Provider:

    (a) A business profile of the Warehouse Provider detailing its corporate history, reputation in the market, location of warehouse facilities, ownership structure, etc.;

    (b) A financial profile of the Warehouse Provider that includes a review of available financial statements and financial ratios, an assessment of the Warehouse Provider's credit worthiness and a review of financial news;

    (c) An insurance coverage review;

(d) A draft or template version of inventory reports; and

(e) Confirmation of the LME or CME approved status of the respective warehouses the Warehouse Provider and Filer agree are acceptable to use for the purpose of storing Copper on behalf of the Trust, pursuant to the Storage Agreements.

In addition, the Filer, or the Technical Advisor on its behalf, will request audited financial statements of the Warehouse Provider as part of the due diligence before entering into the Storage Agreement.

37. The Filer believes that the potential risks of storing Copper with the Warehouse Providers are damage to and/or loss of material due to theft, fire and flooding and to a lesser extent, gross negligence and fraud by the Warehouse Provider. The Filer intends to mitigate such risks by only selecting reputable Warehouse Providers located in the Storage Jurisdictions, using warehouses that are LME or CME-approved with the required insurance coverage, and arranging for the Trust's own industry standard all-risk insurance of the owned Copper.

38. The Filer, on behalf of the Trust will ensure that each Storage Agreement contains provisions as to who bears the responsibility for loss that are consistent with industry practice and covenants with respect to maintaining the necessary insurance policies.

39. The Filer, on behalf of the Trust, will use reasonable commercial efforts to ensure that, pursuant to each Storage Agreement, the terms with respect to liability of the parties continue to apply after the termination of the Storage Agreement until all Copper stored is transferred from the Trust's account.

40. In addition to continuous monitoring and reconfirmation of LME or CME approved warehouse status, the Filer expects to negotiate in the Storage Agreement with each Warehouse Provider a requirement that each respective warehouse location maintain its LME or CME approved status, as well as inspection and information rights to, among other things, maintain proper visibility on the financial standing of the Warehouse Provider. The Filer's actions in this regard are in addition to the due diligence the LME or CME carries out on an ongoing basis on LME or CME approved warehouses.

41. The Storage Agreements will require Warehouse Providers to exercise their services with (A) the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances; or (B) at least the same degree of care as they exercise with respect to the property of LME or CME warehouse receipt holders, if this is a higher degree of care than the degree of care referred to in (A), and to have appropriate insurance in place (as noted in paragraph 32). The Filer will ensure that the arrangements with the Warehouse Providers satisfy the requirements under subsections 6.6(2) to 6.6(4) of NI 81-102 regarding the Warehouse Providers' standard of care owed to the Trust. The Warehouse Providers will not be entitled to an indemnity from the Trust in the event that they breach their standard of care.

42. The Storage Agreements will include industry standard termination provisions, including for termination in the event of a material breach of the Storage Agreement by the Warehouse Provider that is not cured within a prescribed number of days following the giving of written notice to the Warehouse Provider of such material breach.

43. As part of the ongoing due diligence activities, the Filer will ensure that Copper stored at the Warehouse Providers will be subject to a physical count by a representative of the Filer or the Technical Advisor periodically on a spot-inspection basis as well as subject to audit procedures by the Trust's external auditors on at least an annual basis (which audit procedures may include a site inspection).

44. The Filer believes that the custodial arrangements with respect to the Trust's owned Copper will be consistent with industry practice.

45. The Storage Agreements will restrict a Warehouse Provider from transferring Copper without the Trust's consent and/or assigning any of its obligations under the Storage Agreement. In the Filer's view, these restrictions will effectively prohibit any sub-custody arrangements and the appointment of any sub-custodian by the Warehouse Provider, provided, however, that for the avoidance of doubt, under the applicable Storage Agreement, each Warehouse Provider will be expressly permitted to store Copper at an LME or CME approved warehouse owned by its subsidiaries or affiliates.

46. The Filer will not be responsible for any losses or damages to the Trust arising out of any action or inaction by the Trust's custodians or any sub-custodians holding the assets of the Trust, including the Trustee or its sub-custodians holding the assets of the Trust other than Copper, and a Warehouse Provider holding the Copper owned by the Trust.

47. The Filer, with the consent of the Trustee, will have the authority to change the custodial arrangements described above including, but not limited to, the appointment of a replacement custodian or sub-custodian and/or additional custodians or sub-custodians subject to the requirements under NI 81-102, as modified by the Requested Relief.

Requested Relief

48. Holding Copper owned by the Trust with the Warehouse Providers in LME or CME approved warehouses in combination with the appropriate insurance put in place by the Manager and the other assets of the Trust with the Trustee will not detract from the objectives of subsection 6.1(1) of NI 81-102 to ensure effective custody of the portfolio assets of an investment fund, and it will not be prejudicial to the Unitholders to grant the Requested Relief. The Warehouse Providers have the expertise to store Copper safely and have the resources and experience required to act as the custodian for the Trust's Copper. The Warehouse Providers are also subject to government regulation and licensing processes in their jurisdictions, intended to ensure safe and secure handling and storage of Copper in addition to adherence to internationally recognized LME or CME approved status on the warehouse level.

Decision

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

The decision of the Principal Regulator under the Legislation is that the Requested Relief is granted provided that:

a) the final long form prospectus of the Trust contains disclosure regarding the unique risks associated with an investment in the Trust, including the risk that direct purchases of Copper by the Trust may generate higher transaction and custody costs than other types of investments and any material risks relating to the storage of Copper with Warehouse Providers, which may impact the performance of the Trust;

b) Copper will be stored with established and reputable Warehouse Providers, specifically subsidiaries or affiliates of the following entities (or their successors): Access World, C. Steinweg Handelsveem, and P Global Services in LME or CME approved warehouses in the Storage Jurisdictions, that provide secure storage space for Copper owned by the Trust;

c) The Filer will:

(i) maintain market standard insurance coverage for 100% of the value of the Copper owned by the Trust for loss of, theft of and damage to the Copper stored with Warehouse Providers; and

(ii) require each Warehouse Provider to present evidence of the relevant insurance coverage for fraud and gross negligence by the Warehouse Provider for the stored Copper as part of the initial due diligence when entering into a Storage Agreement and on an ongoing basis as part of the Filer's annual audit of the Warehouse Provider;

d) Each Storage Agreement will:

(i) require that the Warehouse Provider only store Copper owned by the Trust in LME or CME approved warehouses;

(ii) require that the Warehouse Provider have the required insurance in place, in accordance with the LME or CME standards for approved warehouses, and further require that the Warehouse Provider present evidence of satisfactory insurance coverage for its contractual liabilities on an ongoing basis as part of the Filer's annual audit of the Warehouse Provider;

(iii) provide that the Warehouse Provider, in carrying out its duties concerning the storage and safekeeping of, and dealing with, Copper, will exercise:

(A) the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances; or

(B) at least the same degree of care as they exercise with respect to the property of LME or CME warehouse receipt holders, if this is a higher degree of care than the degree of care referred to in paragraph (A);

(iv) provide that all Copper owned by the Trust will be segregated from any Copper and other materials owned by the Warehouse Provider or other customers of the Warehouse Provider and be identifiable at all times as belonging to the Trust, and

(v) provide that the Copper stored with the Warehouse Provider will be subject to a physical count by a representative of the Filer or the Technical Advisor periodically on a spot-inspection basis as well as subject to audit procedures by the Trust's external auditors on at least an annual basis;

e) a single entity, expected to be the valuation agent, will reconcile all the portfolio assets of the Trust and will provide the Trust with valuation and unitholder recordkeeping services and will complete daily reconciliations amongst the Warehouse Providers and the custodian of the Trust's assets other than Copper before calculating the NAV of the Trust and NAV per Unit;

f) the Filer will maintain such operational systems and processes, as between the Warehouse Providers and the custodian of the assets of the Trust and the single entity referred to in paragraph e) above, in order to keep a proper reconciliation of all the portfolio assets that will move amongst the Warehouse Providers and the custodian of the assets of the Trust, as appropriate; and

g) legal and physical title of the Copper that form the assets of the Trust will be at all times held by the Trust.

"Darren McKall"
Manager, Investment Management Division
Ontario Securities Commission

Application File #: 2024/0291
SEDAR+ File #: 6130367

B.3.6 CI Investments Inc. and Affiliates

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from short selling limit, cash borrowing limit and combined aggregate value in subparagraph 2.6.1(1)(c)(v), subparagraph 2.6.2(c) and section 2.6.2 of NI 81-102.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.6.1(1)(c)(v), 2.6(2)(c), 2.6.2 and 19.1.

May 30, 2024

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.
(CI)

AND

ITS AFFILIATES
(collectively, the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from CI on behalf of CI Alternative Investment Grade Credit Fund, CI Marret Alternative Absolute Return Bond Fund, CI Marret Alternative Enhanced Yield Fund and CI Alternative Diversified Opportunities Fund (the **Existing Funds**) and any future alternative mutual funds, including exchange-traded funds, of which the Filer will be the manager and to which National Instrument 81-102 *Investment Funds* (**NI 81-102**) will apply (each a **Future Fund** and, collectively with the Existing Funds, the **Funds** and each a **Fund**) for a decision under the securities legislation of the Jurisdiction exempting each Fund from:

(a) subparagraph 2.6.1(1)(c)(v) of NI 81-102, which restricts a Fund from selling a security short if, at the time, the aggregate market value of all securities sold short by the Fund exceeds 50% of the Fund's NAV (together with (c) below, the **Short Selling Limit**);

(b) subparagraph 2.6(2)(c) of NI 81-102, which restricts a Fund from borrowing cash if the value of cash borrowed, when aggregated with the value of all outstanding borrowing by the Fund, exceeds 50% of the Fund's NAV (together with (c) below, the **Cash Borrowing Limit**); and

(c) section 2.6.2 of NI 81-102, which restricts a Fund from borrowing cash or selling securities short if, immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the Fund (the **Combined Aggregate Value**) would exceed 50% of the Fund's NAV and which requires a Fund, if the Combined Aggregate Value exceeds 50% of the Fund's NAV, as quickly as is commercially reasonable, to take all necessary steps to reduce the Combined Aggregate Value to 50% or less of the Fund's NAV;

((a) and (c) together, the **Short Selling Relief**, (b) and (c) together, the **Cash Borrowing Relief**, and collectively, 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 the Application;

(ii) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-202 *Passport System* (**MI 11-102**) is intended to be relied upon in each of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (collectively, together with the Jurisdiction, the **Canadian Jurisdictions**).

Defined Terms

Unless expressly defined herein, terms used in this decision have the respective meanings given to them in MI 11-102, NI 81-102 or National Instrument 14-101 *Definitions*.

NAV means net asset value;

Prime Broker means any entity that acts as a lender or borrowing agent to investment funds;

Prospectus means a simplified prospectus of a Fund prepared in accordance with Form 81-101F1 *Contents of Simplified Prospectus* or a prospectus of a Fund prepared in accordance with Form 41-101F2 *Information Required in an Investment Fund Prospectus,* as the same may be amended from time to time; and

Securities Lending Agreements means agreements which effect securities lending, repurchase or reverse repurchase transactions between a Fund, as lender of the securities, third party borrowers and the Fund's securities lending agent.

Representations

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

CI

1. CI is a corporation amalgamated under the laws of Ontario. CI's head office is located in Toronto, Ontario.

2. CI is registered as follows:

   a. under the securities legislation of all Canadian Jurisdictions as a portfolio manager and an exempt market dealer;

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

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

3. CI is not in default of applicable securities legislation in any of the Canadian Jurisdictions.

4. The Filer is the investment fund manager of the Existing Funds and will be the investment fund manager of any Future Funds.

The Funds

5. Each Fund is, or will be, established under the laws of Ontario or Canada as an investment fund that is a trust or a class of shares of a mutual fund corporation and is, or will be, a reporting issuer in one or more of the Canadian Jurisdictions.

6. Each of the Funds is, or will be, an alternative mutual fund governed by NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

7. The securities of each Fund are, or will be, qualified for distribution in one or more of the Canadian Jurisdictions under a Prospectus prepared and filed in accordance with the securities legislation of such Canadian Jurisdictions.

8. None of the Existing Funds is in default of applicable securities legislation in any of the Canadian Jurisdictions.

Reasons for the Exemption Sought

9. The investment objective of each Fund will differ but, in each case, key investment strategies which may be utilized by a Fund may include (a) the use of market-neutral, offsetting, inverse or shorting strategies requiring the use of short selling in excess of the Short Selling Limit and/or (b) the use of cash borrowing to provide additional investment exposure in connection with the investment strategies of the Fund in excess of the Cash Borrowing Limit.

10. As part of an investment strategy, short positions can serve as both a hedge against exposure to a long position or a group of long positions and also as a source of returns with an offsetting long position or positions. The Funds will generally seek to generate an attractive risk/return profile relative to the direction of the broad markets.

11. The ability to engage in additional short selling and cash borrowing in connection with the investment strategies of a Fund may provide material cost savings to the Fund compared to obtaining the same level of investment exposure through the use of specified derivatives while, at the same time, not increasing the overall level of risk to the Fund.

12. The costs to the Funds of engaging in physical short sales and cash borrowing are typically less when compared to the equivalent derivative transactions due to a number of factors which may include:

    (a) Prime Brokers typically have greater flexibility to offer more favourable financing terms to a Fund in relation to the aggregate amount of the Fund's assets held in the prime brokerage margin account in relation to short sales and cash borrowing.

    (b) Margin requirements for derivative instruments are primarily based on the underlying investment exposure and, as a result, can be high.

    (c) Certain derivative instruments (such as futures contracts) require cash or near cash securities (such as government treasuries) to be deposited with the counterparty as collateral. This would require a Fund to use these portfolio assets to satisfy collateral requirements rather than utilizing them in connection with the Fund's investment strategy.

13. The Funds may use cash borrowing as a more flexible and cost-efficient means of providing additional leverage for investment strategies such as merger arbitrage strategies where the use of derivative instruments to provide the same level of exposure may not be practical. In connection with such strategies, the Filer is typically required to respond in a timely manner to public disclosure relating to a transaction and market movements in the share price of the target and/or acquiror company. The use of cash borrowing in such

circumstances provides an easily accessible tool which enables the Filer to implement the investment decision more quickly compared to the use of derivative instruments which provide the same level of exposure on a synthetic basis.

14. Cash borrowing is more efficient to utilize on a day-to-day basis compared to derivative instruments which generally require a higher degree of negotiation and ongoing administration on the part of the Filer. The Cash Borrowing Relief would provide the Filer with access to a more functional source of additional leverage to utilize on behalf of the Funds at a lower cost which, in turn, would benefit investors.

15. The investment strategies of each Fund permit, or will permit, it to:

    (a) sell securities short, provided that, at the time the Fund sells a security short (i) the aggregate market value of securities of any one issuer (other than "government securities" as defined in NI 81-102) sold short by the Fund does not exceed 10% of the Fund's NAV; and (ii) the aggregate market value of all securities sold short by the Fund does not exceed 100% of its NAV (other than "government securities" as defined in NI 81-102 as permitted by the exemptive relief granted to the Funds on June 6, 2019 and which is currently relied upon by the Existing Funds);

    (b) borrow cash, provided that, at the time, the value of cash borrowed when aggregated with the value of all outstanding borrowing by the Fund does not exceed 100% of the Fund's NAV;

    (c) borrow cash or sell securities short, provided that the aggregate value of cash borrowed combined with the aggregate market value of the securities sold short by the Fund does not exceed 100% of the Fund's NAV (other than "government securities" as defined in NI 81-102 as permitted by the exemptive relief granted to the Funds on June 6, 2019 and which is currently relied upon by the Existing Funds) (the **Total Borrowing and Short Selling Limit**). If the Total Borrowing and Short Selling Limit is exceeded, the Fund shall, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short to be within the Total Borrowing and Short Selling Limit; and

    (d) borrow cash, sell securities short or enter into specified derivatives transactions, provided that, immediately after entering into a cash borrowing, short selling or specified derivative transaction, the aggregate value of cash borrowed combined with the aggregate market value of securities sold short and aggregate notional amount of the Fund's specified derivatives positions (other than positions held for hedging purposes, as defined in NI 81-102) would not exceed 300% of the Fund's NAV as set out in section 2.9.1 of NI 81-102 (the **Leverage Limit**). If the Leverage Limit is exceeded, the Fund shall, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short and the aggregate notional amount of the Fund's specified derivatives positions (other than positions held for hedging purposes) to be within the Leverage Limit.

16. An alternative mutual fund that is subject to NI 81-102 is permitted to take leveraged long and short positions using specified derivatives up to the Leverage Limit. As such, the Exemption Sought would not be required if the Funds utilized solely specified derivatives to obtain short exposure to the underlying securities or to provide additional investment exposure in connection with the Fund's investment strategies. NI 81-102 contemplates that alternative mutual funds may utilize shorting strategies using a combination of short sale transactions (subject to the Short Selling Limit) and specified derivative positions and obtain additional investment exposure using a combination of cash borrowing (subject to the Cash Borrowing Limit) and specified derivative positions subject, in all cases, to the Leverage Limit. Alternative mutual funds that were previously known as commodity pools provide 100% or 200% inverse exposure through the use of specified derivatives, which is consistent with the Leverage Limit and does not trigger the application of the Short Selling Limit or Cash Borrowing Limit for which the Filer is requesting exemptive relief. Accordingly, the Exemption Sought would simply allow the Funds to do directly what they could otherwise do indirectly through the use of specified derivatives.

17. The Funds require the flexibility to enter into physical short positions and borrow cash when doing so is, in the opinion of the Filer, in the best interests of the applicable Fund and to not be obligated to utilize an equivalent short position or amount of leverage synthetically through the use of specified derivatives as a result of regulatory restrictions in NI 81-102 that the Filer believes do not provide any material additional benefit or protection to investors.

18. The Filer believes that the Exemption Sought would allow the Filer to more effectively manage each Fund's investment exposure by providing it with the ability to respond to market developments in a

timely manner and enabling the Filer to reduce the related expenses incurred by the Funds. In addition, specified derivative options may not be readily available for certain securities, may be relatively illiquid or may require large capital commitments on the part of the Fund.

19. While there may be certain situations where using a synthetic short position may be preferable, physical short positions are typically less costly, because of the ability to execute trades with a larger number of counterparties, compared to a single counterparty for synthetic shorts. This can result in lower borrowing costs for the Fund and reduce its exposure to counterparty risk (e.g. counterparty default, counterparty insolvency and premature termination of derivatives) compared to a synthetic short position.

20. The Filer, as a registrant and a fiduciary, is in the best position to determine, depending on the surrounding circumstances, whether the Funds should enter into a physical short position and/or obtain additional investment exposure via cash borrowing versus achieving the same result through the use of specified derivatives. The Exemption Sought would provide the Filer with the required flexibility to make timely trading decisions between physical and synthetic short sale positions and/or achieving additional investment exposure through cash borrowing or synthetic transactions. Accordingly, the Exemption Sought would permit the Filer to implement more effective portfolio management activities on behalf of a Fund and its investors. Investors would benefit by obtaining access to a more diversified set of investment opportunities than are currently available, while remaining within the overall investment limits set out in NI 81-102.

21. Any physical short position or cash borrowing transaction entered into by a Fund will be consistent with the investment objectives and strategies of the applicable Fund.

22. The investment strategies of each Fund will clearly disclose that the short selling and cash borrowing strategies and abilities of the Fund are outside the scope of NI 81-102, including that the aggregate market value of all securities sold short by the Fund and/or the aggregate amount of cash borrowed may exceed 50% of the Fund's NAV. The Prospectus will also contain appropriate risk disclosure, alerting investors of any material risks associated with such investment strategies.

23. The Filer does not consider that granting the Exemption Sought would constitute either a fundamental or material change for the Funds under NI 81-102 or National Instrument 81-106 *Investment Fund Continuous Disclosure.*

24. The Filer will determine the risk rating for each Fund using the Investment Risk Classification Methodology as set out in Appendix F of NI 81-102. The Filer does not anticipate that the current risk ratings of the Funds would change if the Exemption Sought were granted.

25. The Filer has comprehensive risk management policies and/or procedures that address the risks associated with short selling and cash borrowing in connection with the implementation of the investment strategy of each Fund.

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

    (a) The Fund will assume the obligation to return to the borrowing agent the securities borrowed to effect the short sale;

    (b) The Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

    (c) The Filer will monitor the short positions within the constraints of the Exemption Sought as least as frequently as daily;

    (d) The security interest provided by the Fund over any of its assets that is required to enable the Fund to effect a short sale transaction is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;

    (e) The Filer will maintain appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records; and

    (f) The Filer will keep proper books and records of short sales and all assets of a Fund deposited with borrowing agents as security.

27. The Filer believes that it is in the best interests of each of the Funds to be permitted to engage in physical short selling and to obtain additional investment exposure through the use of cash borrowing in excess of the current limits set out in NI 81-102.

Decision

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

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

1. A Fund may sell a security short or borrow cash only if, immediately after the cash borrowing or short selling transaction:

   (a) the aggregate market value of all securities sold short by the Fund does not exceed 100% of the Fund's NAV (other than "government securities" as defined in NI 81-102);

   (b) the aggregate value of all cash borrowing by the Fund does not exceed 100% of the Fund's NAV;

   (c) the aggregate market value of securities sold short by the Fund combined with the aggregate value of cash borrowing by the Fund does not exceed 100% of the Fund's NAV (other than "government securities" as defined in NI 81-102); and

   (d) the Fund's aggregate exposure to short selling, cash borrowing and specified derivatives does not exceed the Leverage Limit.

2. In the case of a short sale, the short sale:

   (a) otherwise complies with all of the short sale requirements applicable to alternative mutual funds under sections 2.6.1 and 2.6.2 of NI 81-102, as modified by any exemptive relief granted to the Fund; and

   (b) is consistent with the Fund's investment objectives and strategies.

3. In the case of a cash borrowing transaction, the transaction:

   (a) otherwise complies with all of the cash borrowing requirements applicable to alternative mutual funds under sections 2.6 and 2.6.2 of NI 81-102, as modified by any exemptive relief granted to the Fund; and

   (b) is consistent with the Fund's investment objectives and strategies.

4. The Prospectus under which securities of a Fund are offered discloses, or will disclose at the time of its next renewal, as applicable, that the Fund can sell securities short or borrow cash up to, and subject to, the limits described in condition 1 above.

"Darren McKall"
Manager, Investment Management
Ontario Securities Commission

Application File #: 2024/0271
SEDAR+ File #: 6124893

B.3.7 Safran S.A.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the prospectus and registration requirements for certain trades made in connection with an employee share offering by a French issuer – the issuer cannot rely on the employee exemption in section 2.24 of National Instrument 45-106 Prospectus Exemptions as the securities are not being offered to Canadian employees directly by the issuer but rather through a special purpose entity – Canadian participants will receive disclosure documents – the special purpose entity or FCPE is subject to the supervision of the local securities regulator – Canadian employees will not be induced to participate in the offering by expectation of employment or continued employment – there is no market for the securities of the issuer in Canada – the number of Canadian participants and their share ownership are de minimis – relief granted, subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1), 53(1) and 74(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.
National Instrument 45-106 Prospectus Exemptions.
National Instrument 45-102 Resale of Securities.
Ontario Securities Commission Rule 72-503 Distributions Outside Canada.

May 31, 2024

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
SAFRAN S.A.
(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**) for:

1. an exemption from the prospectus requirement of the Legislation (the **Prospectus Relief**) so that such requirement does not apply to:

   (a) trades of units (the **Units**) of a *fonds commun de placement d'entreprise* or **FCPE**, a form of collective shareholding vehicle commonly used in France for the custody of shares held by employee-investors, named *Safran International* (the **Classic Fund**) made pursuant to an Employee Offering (as defined below) to or with Qualifying Employees (as defined below) resident in the Jurisdictions (as defined below) (collectively, the **Canadian Employees**, and Canadian Employees who subscribe for Units, the **Canadian Participants**); and

   (b) trades of ordinary shares of the Filer (the **Shares**) by the Classic Fund to or with Canadian Participants upon the redemption of Units as requested by Canadian Participants;

2. an exemption from the dealer registration requirement (the **Registration Relief**) so that such requirement does not apply to the Filer, the Local Related Entities (as defined below), the Classic Fund and Natixis Investment Managers International (the **Management Company**) in respect of:

   (a) trades in Units made pursuant to an Employee Offering to or with Canadian Employees; and

(b) trades in Shares by the Classic Fund to or with Canadian Participants upon the redemption of Units as requested by Canadian Participants

(the Prospectus Relief and the Registration Relief, collectively, the **Exemption Sought**).

3. 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 Québec (together with the Jurisdiction, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 45-106 *Prospectus Exemptions* 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 formed under the laws of France. It is not and has no intention of becoming a reporting issuer under the securities legislation of any jurisdiction of Canada. The head office of the Filer is located in France and the Shares are listed on Euronext Paris. The Shares and Units are not currently listed for trading on any Canadian stock exchange and there is no intention to have the Shares or Units so listed.

2. The Filer has established a global employee share offering (the **2024 Employee Offering**) and expects to establish subsequent global employee share offerings following 2024 for the next four years that are substantially similar (the **Subsequent Employee Offerings**, and together with the 2024 Employee Offering, the **Employee Offering**) for Qualifying Employees of the Filer and its participating related entities, including related entities that employ Canadian Employees (**Local Related Entities**, and together with the Filer and other related entities of the Filer, the **Safran Group**). Each Local Related Entity is a direct or indirect controlled subsidiary of the Filer and no Local Related Entity is a reporting issuer nor has any intention of becoming a reporting issuer under the securities legislation of any jurisdiction of Canada. The head office of the Safran Group in Canada is located in Ontario.

3. As of the date hereof, Local Related Entities include Safran Landing Systems Canada Inc., Safran Landing Systems, Safran Helicopter Engines and Safran Electronics and Defense. For any Subsequent Employee Offering, the list of Local Related Entities may change.

4. As of the date hereof and after giving effect to the Employee Offering, the Filer is and will be a "foreign issuer" as such term is defined in section 2.15(1) of National Instrument 45-102 *Resale of Securities* (**NI 45-102**) and section 2.8(1) of Ontario Securities Commission Rule 72-503 *Distributions Outside Canada* (**OSC Rule 72-503**).

5. The 2024 Employee Offering involves an offering of Shares to be acquired through the Classic Fund. Each Subsequent Employee Offering will involve an offering of Shares to be subscribed through the Classic Fund (the **Classic Plan**, which for greater certainty, includes the 2024 Employee Offering), subject to the decision of the supervisory board of the Classic Fund and the approval of the Autorité des marchés financiers in France (the **French AMF**).

6. Only persons who are employees of a company in the Safran Group during the subscription period for an Employee Offering and who meet other employment criteria (e.g., have been employed by an applicable company in the Safran Group for three months on the date corresponding to the end of the subscription period) (the **Qualifying Employees**) will be permitted to participate in the Employee Offering and become member of the PEGI (*plan d'épargne groupe international* or international group savings plan).

7. The Classic Fund was established for the purpose of implementing the Employee Offering generally. The Classic Fund is not and has no intention to become a reporting issuer under the securities legislation of any jurisdiction of Canada.

8. The Classic Fund was registered with and has been approved by the French AMF.

9. Under the Classic Plan, each Employee Offering will be made as follows:

(a) Canadian Participants will subscribe for Units in the Classic Fund, and the Classic Fund will then subscribe for Shares on behalf of Canadian Participants using the Canadian Participants' contributions.

(b) The subscription price of a Share will be the Canadian dollar equivalent of the Share price (expressed in euros) at the time of acquisition on Euronext Paris by the Classic Fund on behalf of the Canadian Participant following the subscription period.

(c) For each contribution that a Canadian Participant makes, he or she will receive a matching contribution of Shares in an amount corresponding to 60% of the amount invested, up to an annual maximum of 2,000 euros (made into Canadian dollars and converted into euros following the subscription period in order to be invested in the Classic Fund). The matching contribution will be used to issue additional Units to Canadian Participants. For each Subsequent Employee Offering, the matching contribution rules may change.

(d) The Classic Fund will apply the cash received from Canadian Participants and the cash received from the employer contributions to subscribe for Shares. The Shares subscribed for will be held in the Classic Fund and the Canadian Participant will receive Units in the Classic Fund.

(e) All Units acquired in the Employee Offering by Canadian Participants will be subject to a hold period of approximately five years (the **Lock-Up Period**), subject to certain exceptions provided for under French law and adopted for an Employee Offering, which are death of the employee, disability of the employee or termination of employment.

(f) Any dividends paid on the Shares held in the Classic Fund will be contributed to the Classic Fund and used to purchase additional Shares (or fractions thereof), and additional Units (or fractions thereof) will be issued to the Canadian Participants.

(g) At the end of the applicable Lock-Up Period, a Canadian Participant may: (i) request the redemption of his or her Units in the Classic Fund in consideration for the underlying Shares, or a cash payment equal to the then market value of the Shares; or (ii) continue to hold his or her Units in the Classic Fund and request the redemption of those Units at a later date in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares.

(h) In the event of an early exit resulting from a Canadian Participant exercising one of the exceptions to the Lock-Up Period and meeting the applicable criteria, a Canadian Participant may request the redemption of Units in the Classic Fund in consideration for a cash payment equal to the then market value of the underlying Shares.

10. Under French law, an FCPE is a limited liability entity. The portfolio of the Classic Fund will consist almost entirely of Shares, but may, from time to time, include cash in respect of dividends paid on the Shares which will be reinvested in Shares and cash or cash equivalents pending investments in Shares and for the purposes of Unit redemptions.

11. The Classic Fund is managed by the Management Company, which is a portfolio management company governed by the laws of France. The Management Company is registered with the French AMF as an investment manager and complies with the rules of the French AMF. The Management Company is not, and has no intention of becoming, a reporting issuer under the securities legislation of any jurisdiction of Canada.

12. The Management Company's portfolio management activities in connection with the Employee Offering and the Classic Fund is limited to purchasing Shares from the Filer, selling such Shares as necessary in order to fund redemption requests and investing available cash in cash equivalents pending investments in the Shares and for the purposes of Unit redemptions.

13. The Management Company is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of the Classic Fund. The Management Company's activities do not affect the underlying value of the Shares.

14. None of the entities forming part of the Safran Group, the Classic Fund or the Management Company, or any of their directors, officers, employees, agents or representatives will provide investment advice to Canadian Employees with respect to an investment in Units or Shares.

15. None of the Filer, other entities forming part of the Safran Group, the Classic Fund or the Management Company is in default of securities legislation of any jurisdiction of Canada.

16. Shares issued pursuant to an Employee Offering will be deposited in the Classic Fund through CACEIS Bank (the **Depositary**), a large French commercial bank subject to French banking legislation. For any Subsequent Employee Offering, the Depositary may change. In the event of such a change, the successor to the Depositary will remain a large French commercial bank subject to French banking legislation. The Depositary carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow the Classic Fund to exercise the rights relating to the securities held in its portfolio.

17. The Management Company and the Depositary are obliged to act exclusively in the best interests of the Unit holders (including Canadian Participants) and are jointly and severally liable to them under French legislation for any violation of the rules and regulations governing FCPEs, any violation of the rules of the Classic Fund, or for any self-dealing or negligence.

18. Participation in an Employee Offering is voluntary, and the Canadian Employees will not be induced to participate in an Employee Offering by expectation of employment or continued employment.

19. The Unit value of the Classic Fund will be calculated and reported to the French AMF on a regular basis, based on the net assets of the Classic Fund divided by the number of Units outstanding. The value of Units will increase or decrease reflecting the increase or decrease of the value of the underlying Shares on Euronext Paris.

20. All management charges relating to the Classic Fund will be paid from the assets of the Classic Fund or by the Filer, as provided in the rules of the Classic Fund.

21. The total amount that may be invested by a Canadian Employee pursuant to the 2024 Employee Offering cannot exceed 25% of his or her gross annual compensation (either received at the start of the applicable calendar year or estimated over the year based on the salary currently received by the employee). Amounts contributed by a Canadian Employee's employer through the employer matching contribution described above are not factored into this maximum amount that a Canadian Employee may contribute.

22. Canadian Employees will have access to an information package in the French or English language, according to their preference, which will include a summary of the terms of the relevant Employee Offering and a description of the relevant Canadian income tax consequences of subscribing for and holding Units of the Classic Fund and requesting the redemption of such Units at the end of the applicable Lock-Up Period. Canadian Employees will have access to a copy of the rules and the key investor information document (**KID**) of the Classic Fund. Canadian Employees will also have access to the Filer's universal registration document in the French or English language on the Safran website (which is also filed with the French AMF) in respect of the Shares. Canadian Employees will have access to copies of the continuous disclosure materials relating to the Filer that are furnished to holders of Shares generally. Canadian Participants will receive an initial statement of their subscription of Units under the Classic Plan, together with an updated statement, at least once per year. Canadian Participants will also have access to all the information relating to their subscription on the Management Company's dedicated website.

23. As of April 22, 2024, for the 2024 Employee Offering, there are approximately 1,097 Qualifying Employees resident in Canada, with the greatest number resident in Ontario (782) and the remainder in Québec (315), which represents, in the aggregate less than 1% of the number of employees in the Safran Group worldwide.

24. Units are not transferable by holders of such Units except upon redemption and other than as reflected in the decision document.

Decision

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

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

I. with respect to the 2024 Employee Offering, the prospectus requirement will apply to the first trade in any Units or Shares acquired by Canadian Participants pursuant to this decision unless the following conditions are met:

(a) the issuer of the security:

(i) was not a reporting issuer in any jurisdiction of Canada at the distribution date, or

(ii) is not a reporting issuer in any jurisdiction of Canada at the date of the trade;

(b) the issuer of the security was a foreign issuer on the distribution date, as such term is defined in section 2.15(1) of NI 45-102 and section 2.8(1) of OSC Rule 72-503; and

(c) the first trade is made:

(i) through an exchange, or a market, outside of Canada, or

(ii) to a person or company outside of Canada; and

II. for any Subsequent Employee Offering under this decision completed within five years from the date of this decision:

(a) the representations other than those in paragraphs 3 and 23 remain true and correct in respect of a Subsequent Employee Offering, and

(b) the conditions set out in paragraph I apply to any Subsequent Employee Offering (varied such that any references therein to the 2024 Employee Offering are read as references to the relevant Subsequent Employee Offering); and

III. in the Province of Ontario, the prospectus exemption above, for the first trade in any Units or Shares acquired by Canadian Participants pursuant to this decision, is not available with respect to any transaction or series of transactions that is part of a plan or scheme to avoid the prospectus requirements in connection with a trade to a person or company in Canada.

"Lina Creta"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2024/0240

B.3.8 Manulife Investment Management Limited and Manulife Investment Management Distributors Inc.

Headnote

Pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103) – relief from the requirements in section 11.2 and 11.3 of NI 31-103 to designate one individual as chief compliance officer (CCO) and one individual as ultimate designated person (UDP), such that each Filer may instead be permitted to designate two individuals as CCO and three individuals as UDP in respect of each Filers' three distinct operating divisions.

Applicable Legislative Provisions

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions, s. 5.4.
Multilateral Instrument 11-102 Passport System, s. 4.7(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 11.2, 11.3 and 15.1.

May 31, 2024

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
MANULIFE INVESTMENT MANAGEMENT LIMITED
(MIML)

AND

MANULIFE INVESTMENT MANAGEMENT DISTRIBUTORS INC.
(MIMDI)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from MIML and its subsidiary, MIMDI (each a **Filer** and, collectively with MIML, the **Filers**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an Order exempting each Filer from the requirement contained in section 11.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) (the **CCO Requirement**) to permit each Filer to designate and register two individuals as chief compliance officers (each of them a **CCO**) (the **CCO Decision**) and for an order exempting each Filer from the requirement contained in section 11.2 of NI 31-103 (the **UDP Requirement**) to permit each Filer to designate and register three individuals as ultimate designated person (**UDP**) (the **UDP Decision**) in respect of each Filer's distinct lines of business (the CCO Decision and the UDP Decision are collectively the **Exemption Sought**).

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

(a) the Ontario Securities Commission (**OSC**) is the principal regulator (the **Principal Regulator**) for this application as the head office of each Filer is located in Toronto, Ontario; and

(b) The Filers have provided notice that section 4.7 of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is to be relied upon by the Filers in Alberta, British Columbia, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the **Non-Principal Jurisdictions**, and together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in the securities legislation of the jurisdiction of the Principal Regulator (the **Legislation**), 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 Filers:

MIML

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

2. MIML is registered in the following categories: portfolio manager in all provinces and territories of Canada; investment fund manager in Ontario, Newfoundland and Labrador, and Quebec; commodity trading manager in Ontario; and derivatives portfolio manager in Quebec.

3. MIML is not in default of any of the requirements of the securities legislation in any jurisdiction of Canada.

MIMDI

4. MIMDI is a corporation existing under the laws of Canada, with its registered head office located in Toronto, Ontario.

5. MIMDI is a wholly-owned subsidiary of MIML.

6. MIMDI is registered as an exempt market dealer in each province and territory of Canada.

7. MIMDI is not in default of any of the requirements of the securities legislation in any jurisdictions of Canada.

Operational Structure

8. MIML carries on its Canadian wealth and asset management operations through all three of its divisions, namely the Institutional Division, Retail Division and Wealth Division. MIML is distributing funds to Canadian institutional and high-net worth investors, across the same divisional structure. MIML and MIMDI are highly intertwined entities, with overlapping directors and officers, shared personnel, premises, and equipment, and overlapping clientele.

9. Each Division generally functions independently, as stand-alone operations within each Filer. Each Division generally has separate and distinct operating models and management structures, with exceptions such as certain shared functional support.

Institutional – MIML

10. MIML's Institutional Division offers a broad array of equity, fixed income and multi-asset investment solutions to non-individual institutional clients that are "permitted clients" in Canada (e.g., pension funds, financial institutions, endowments, foundations, investment funds, etc.) and in select other jurisdictions around the world. MIML's Institutional Division does so as a portfolio manager to separately managed accounts, investment funds and non-investment funds, and as an investment fund manager to investment funds.

11. MIML's Institutional Division investment fund management activity currently principally consists of acting as investment fund manager to the Manulife Investment Management Pooled Funds, a group of pooled funds offered principally to institutional investors on a private placement basis that MIML is trustee or general partner and portfolio advisor to.

12. MIML's Institutional Division portfolio management activities can be further described as: (i) portfolio management for its life insurance company affiliates, referred to as the General Account; and (ii) portfolio management principally for institutional clients, including investment funds.

Institutional – MIMDI

13. MIMDI's Institutional Division offers a broad array of affiliated public and private market funds to non-individual institutional clients that are "permitted clients" in Canada (e.g., pension funds, financial institutions, endowments, foundations, investment funds, etc.). MIMDI's Institutional Division does so as an exempt market dealer.

Retail Division – MIML and MIMDI

14. MIML's Retail Division provides investment fund management to investment funds that are primarily offered to Canadian retail investors. Its offering of mutual funds and exchange traded funds are subject to National Instrument 81-102

Investment Funds, and a pooled fund is available for exempt individual investors. MIMDI's Retail Division provides exempt market dealer services for these same retail investment funds to institutional investors.

Wealth Division – MIML and MIMDI

15. MIML's Wealth Division offers portfolio management services via MIML primarily to high-net-worth individuals under its own distinct brand, currently the Manulife Private Wealth brand. MIMDI's Wealth Division via MIMDI similarly offers exempt market dealer services to the same clientele.

The UDP Decision

16. Currently, the Filers each have one UDP (the **Filers' UDP**) responsible for all divisions, namely the Institutional Division, Retail Division and Wealth Division (each a **Division** and collectively, the **Divisions**).

17. Effective upon the Exemption Sought being granted, the Filers will each appoint a new UDP for each of its Institutional Division (the **Institutional UDP**), its Retail Division (the **Retail UDP**) and its Wealth Division (the **Wealth UDP**) (collectively, the **New UDPs**). Each of the New UDPs would be the most senior officer of the respective Division and a senior officer of the respective Filer (each a **Division Head**).

18. The New UDPs, regardless of their titles, will be the most senior executive decision maker for his or her respective Division and will fulfill the following roles for his or her Division:

    a. supervise, oversee, and otherwise be responsible for running the Division;

    b. provide clear leadership and promote a culture of compliance within the Division;

    c. be accountable, along with other members of each Filer's senior management, for the performance of the Division;

    d. be accountable for reporting to the respective Filer's Board of Directors with respect to the Division; and

    e. be responsible, along with other members of each Filer's senior management, for the organizational structure and succession planning for the Division.

19. There will be no line of reporting between the New UDPs and each New UDP will have direct access to the respective Filer's Board of Directors, present independently and routinely to the Board at their quarterly meetings and ad hoc meetings, as applicable.

The CCO Decision

20. Currently, the Filers each have one CCO responsible for all Divisions.

21. Upon the Exemption Sought being granted, the Wealth Division of each Filer will have its own new CCO (the **Wealth CCO**). The Institutional Division and the Retail Division will retain their existing CCO (the **Institutional and Retail CCO**).

22. Each of the CCOs will oversee a compliance system that is reasonably designed to ensure that the Division(s) for which they are the CCO, and each person acting on its behalf, comply with applicable securities legislation and will manage the risks associated with their respective Division(s) in accordance with prudent business practices.

23. Upon the Exemption Sought being granted, each of the CCOs will have direct access to the respective Filer's Board of Directors, present independently and routinely to the Board at their quarterly meetings and ad hoc meetings, as applicable.

Reasons For Exemption Sought

UDP Requirement

24. Under the UDP Requirement, a registered firm is required to designate and have registered an individual to be the UDP and the UDP must be one of the following: (a) the chief executive officer of the registered firm or, if the firm does not have a chief executive officer, an individual acting in a capacity similar to a chief executive officer; (b) the sole proprietor of the registered firm; (c) the officer in charge of a division of the registered firm, if the activity that requires the firm to register occurs only within the division and the firm has significant other business activities. Applications to designate and register UDPs must be submitted pursuant to the process set out in National Instrument 33-109, *Registration Information*.

25. Allowing each Filer to designate and have registered a separate UDP for each of its Divisions would be consistent with the policy objectives of the UDP Requirement as the Divisions within each Filer are independent operations that are

distinct from each other and are conducted on a very large scale with separate and distinct senior management structures in which each of the new UDPs will be the most senior executive officer of their respective Division(s).

CCO Requirement

26. Under the CCO Requirement, a registered firm is required to designate and have registered an individual to be the CCO. Applications to designate and register CCOs must be submitted pursuant to the process set out in National Instrument 33-109, *Registration Information*.

27. Allowing each Filer to designate and have registered a separate CCO for some of its Divisions would be consistent with the policy objectives of the CCO Requirement as the Institutional and Retail Divisions of each Filer are generally overseen independently from the Wealth Division, the compliance structures are distinct from each other, and are conducted on a very large scale with generally separate and distinct management structures in which each of the CCOs is the most senior compliance officer in their respective Division(s).

Decision

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

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

A. with respect to the UDP Decision:

(i) each Division of each Filer will have its own UDP who shall be the most senior executive officer of the Division for which he or she is appointed as UDP;

(ii) each UDP fulfills the responsibilities set out in section 5.1 of NI 31-103, or any successor provision, in respect of the Division(s) for which he or she is designated as UDP; and

(iii) each UDP of the Filers has direct access to the respective Filer's Board of Directors;

B. with Respect to the CCO Decision:

(iv) the Filers Institutional and Retail Divisions will have the same CCO, and the Filers Wealth Divisions will have their own CCO;

(v) each CCO reports to the UDP of the Division(s) of the respective Filer for which he or she is designated as CCO;

(vi) each CCO fulfills the responsibilities set out in section set out in section 5.2 of NI 31-103, or any successor provision thereto, in respect of the Division of the respective Filer for which he or she is designated as CCO; and

(vii) each CCO of the Filers has direct access to the respective Filer's Board of Directors.

"Elizabeth A. King"
Deputy Director, Registration, Inspections and Examinations Division
Ontario Securities Commission

OSC File #: 2024/0067

B.4
Cease Trading Orders

B.4.1 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
Awakn Life Sciences Corp	May 7, 2024	May 29, 2024
Biomind Labs Inc.	April 8, 2024	June 3, 2024

B.4.2 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
Nickel 28 Capital Corp	May 31, 2024	
POSaBIT Systems Corporation	June 3, 2024	

B.4.3 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
Agrios Global Holdings Ltd.	September 17, 2020	
Sproutly Canada, Inc.	June 30, 2022	
iMining Technologies Inc.	September 30, 2022	
Alkaline Fuel Cell Power Corp.	April 4, 2023	
mCloud Technologies Corp.	April 5, 2023	
FenixOro Gold Corp.	July 5, 2023	
HAVN Life Sciences Inc.	August 30, 2023	
Payfare Inc.	April 3, 2024	
Perk Labs Inc.	April 4, 2024	
XTM Inc.	April 30, 2024	
Cybeats Technologies Corp.	April 30, 2024	

Company Name	Date of Order	Date of Lapse
Powerband Solutions Inc.	April 30, 2024	
AnalytixInsight Inc.	May 1, 2024	
Organto Foods Inc.	May 8, 2024	
Magnetic North Acquisition Corp.	May 8, 2024	
Pasinex Resources Limited	May 8, 2024	
Mydecine Innovations Group Inc.	May 9, 2024	
FRX Innovations Inc.	May 10, 2024	
Nickel 28 Capital Corp.	May 31, 2024	
POSaBIT Systems Corporation	June 3, 2024	

B.7
Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as in Thomson Reuters Canada's internet service SecuritiesSource (see www.westlawnextcanada.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).

B.9
IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
Hazelview Global Real Estate Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 31, 2024
NP 11-202 Final Receipt dated Jun 3, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06116772

Issuer Name:
BMO Aggregate Bond ETF Fund
BMO Concentrated Global Balanced Fund
BMO Core Bond Fund
BMO Core Plus Bond Fund
BMO Corporate Bond ETF Fund
BMO Crossover Bond Fund
BMO Diversified Income Portfolio
BMO Emerging Markets Bond Fund
BMO Global Monthly Income Fund
BMO Global Strategic Bond Fund
BMO Growth & Income Fund
BMO Money Market Fund
BMO Monthly Dividend Fund Ltd.
BMO Monthly High Income Fund II
BMO Monthly Income Fund
BMO Mortgage and Short-Term Income Fund
BMO Preferred Share Fund
BMO Strategic Fixed Income Yield Fund
BMO Sustainable Bond Fund
BMO Sustainable Global Multi-Sector Bond Fund (formerly, BMO Global Multi-Sector Bond Fund)
BMO International Equity ETF Fund
BMO International Equity Fund
BMO International Value Fund
BMO Japan Fund
BMO Low Volatility Canadian Equity ETF Fund
BMO Low Volatility U.S. Equity ETF Fund
BMO Multi-Factor Equity Fund
BMO Nasdaq 100 Equity ETF Fund
BMO North American Dividend Fund
BMO Premium Yield ETF Fund
BMO SIA Focused Canadian Equity Fund
BMO SIA Focused North American Equity Fund
BMO Strategic Equity Yield Fund
BMO Sustainable Global Balanced Fund (formerly, BMO Global Balanced Fund)
BMO Sustainable Opportunities Canadian Equity Fund
BMO Sustainable Opportunities China Equity Fund
BMO Sustainable Opportunities Global Equity Fund
BMO Tactical Balanced ETF Fund
BMO Tactical Dividend ETF Fund
BMO Tactical Global Asset Allocation ETF Fund
BMO ARK Genomic Revolution Fund
BMO ARK Innovation Fund
BMO ARK Next Generation Internet Fund
BMO Asian Growth and Income Fund
BMO Asset Allocation Fund
BMO Brookfield Global Real Estate Tech Fund
BMO Brookfield Global Renewables Infrastructure Fund
BMO Canadian Banks ETF Fund
BMO Canadian Equity ETF Fund
BMO Canadian Equity Fund

BMO Canadian Income & Growth Fund
BMO Canadian Smart Alpha Equity Fund (formerly, BMO Canadian Large Cap Equity Fund)
BMO Canadian Stock Selection Fund
BMO Concentrated Global Equity Fund
BMO Covered Call Canada High Dividend ETF Fund
BMO Covered Call Canadian Banks ETF Fund
BMO U.S. Corporate Bond Fund
BMO U.S. High Yield Bond Fund
BMO Ultra Short-Term Bond ETF Fund
BMO World Bond Fund
BMO Ascent Balanced Portfolio
BMO Ascent Conservative Portfolio
BMO Ascent Equity Growth Portfolio
BMO Ascent Growth Portfolio
BMO Ascent Income Portfolio
BMO Retirement Balanced Portfolio
BMO Retirement Conservative Portfolio
BMO Retirement Income Portfolio
BMO Risk Reduction Equity Fund
BMO Risk Reduction Fixed Income Fund
BMO SelectTrust Balanced Portfolio
BMO SelectTrust Equity Growth Portfolio
BMO SelectTrust Growth Portfolio
BMO Sustainable Conservative Portfolio (formerly, BMO Principle Conservative Portfolio)
BMO Sustainable Income Portfolio (formerly BMO Principle Income Portfolio)
BMO Target Education 2025 Portfolio
BMO Target Education 2030 Portfolio
BMO Target Education 2035 Portfolio
BMO Target Education 2040 Portfolio
BMO Target Education Income Portfolio
BMO Balanced ETF Portfolio
BMO Conservative ETF Portfolio
BMO Equity Growth ETF Portfolio
BMO Growth ETF Portfolio
BMO Managed Balanced Portfolio (fomerly, BMO Fundselect Balanced Portfolio)
BMO Managed Conservative Portfolio (formerly, BMO Fundselect Conservative Portfolio)
BMO Managed Equity Growth Portfolio (fomerly, BMO Fundselect Equity Growth Portfolio)
BMO Managed Growth Portfolio (fomerly, BMO Fundselect Growth Portfolio)
BMO Managed Income Portfolio (fomerly, BMO Fundselect Income Portfolio)
BMO SelectTrust Conservative Portfolio
BMO SelectTrust Fixed Income Portfolio
BMO SelectTrust Income Portfolio
BMO U.S. Dollar Balanced Fund
BMO U.S. Dollar Dividend Fund
BMO U.S. Dollar Equity Index Fund
BMO U.S. Dollar Money Market Fund
BMO U.S. Dollar Monthly Income Fund
BMO USD Balanced ETF Portfolio
BMO USD Conservative ETF Portfolio
BMO USD Income ETF Portfolio
BMO Covered Call Energy ETF Fund
BMO Covered Call Europe High Dividend ETF Fund
BMO Covered Call U.S. High Dividend ETF Fund
BMO Covered Call Utilities ETF Fund
BMO Dividend Fund
BMO European Fund
BMO Global Climate Transition Fund
BMO Global Dividend Fund
BMO Global Dividend Opportunities Fund
BMO Global Enhanced Income Fund
BMO Global Equity Fund
BMO Global Health Care Fund
BMO Global Income & Growth Fund
BMO Global Infrastructure Fund
BMO Global Innovators Fund
BMO Global Low Volatility ETF Fund
BMO Global Quality ETF Fund
BMO Global REIT Fund
BMO Greater China Fund
BMO Growth Opportunities Fund
BMO Canadian Small Cap Equity Fund
BMO Clean Energy ETF Fund
BMO Emerging Markets Fund
BMO Fixed Income ETF Portfolio
BMO Global Energy Fund
BMO Global Small Cap Fund
BMO Income ETF Portfolio
BMO Precious Metals Fund
BMO Resource Fund
BMO Tactical Global Equity ETF Fund
BMO Tactical Global Growth ETF Fund
BMO U.S. All Cap Equity Fund
BMO U.S. Dividend Fund
BMO U.S. Equity ETF Fund
BMO U.S. Equity Fund
BMO U.S. Equity Growth MFR Fund (formerly, BMO U.S. Equity Growth Fund)
BMO U.S. Equity Plus Fund
BMO U.S. Equity Value MFR Fund (formerly, BMO U.S. Equity Value Fund)
BMO U.S. Small Cap Fund
BMO Women in Leadership Fund
BMO Inflation Opportunities Fund
BMO Sustainable Balanced Portfolio (formerly, BMO Principle Balanced Portfolio)
BMO Sustainable Equity Growth Portfolio
BMO Sustainable Growth Portfolio (formerly, BMO Principle Growth Portfolio)
Principal Regulator – Ontario

Type and Date:
Final Simplified Prospectus dated May 24, 2024
NP 11-202 Final Receipt dated May 31, 2024

Offering Price and Description:
-

Underwriter(s) or Distributor(s):
-

Promoter(s):
-

Filing #06114207, 06114275, 06114452, 06114641, 06114491, 06114378, 06114483, 06114680

_____

Issuer Name:
NBI Target 2025 Investment Grade Bond Fund
NBI Target 2026 Investment Grade Bond Fund
NBI Target 2027 Investment Grade Bond Fund
NBI Target 2028 Investment Grade Bond Fund
NBI Target 2029 Investment Grade Bond Fund
Principal Regulator – Quebec
Type and Date:
Preliminary Simplified Prospectus dated May 29, 2024
NP 11-202 Preliminary Receipt dated May 30, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06138059

Issuer Name:
YTM Capital Fixed Income Alternative Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 31, 2024
NP 11-202 Final Receipt dated Jun 3, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06119251

Issuer Name:
Corton Enhanced Income Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated May 27, 2024
NP 11-202 Preliminary Receipt dated May 28, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06136118

Issuer Name:
Hazelview Alternative Real Estate Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated May 31, 2024
NP 11-202 Preliminary Receipt dated Jun 3, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06141886

Issuer Name:
Canada Life Global Inflation-Linked Fixed Income Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated May 23, 2024
NP 11-202 Preliminary Receipt dated May 24, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06141681

Issuer Name:
Capital Group Canadian Core Plus Fixed Income Fund (Canada)
Capital Group Canadian Focused Equity Fund (Canada)
Capital Group Canadian Money Market Fund (Canada)
Capital Group Capital Income Builder (Canada)
Capital Group Emerging Markets Total Opportunities Fund (Canada)
Capital Group Global Balanced Fund (Canada)
Capital Group Global Equity Fund (Canada)
Capital Group International Equity Fund (Canada)
Capital Group Monthly Income Portfolio (Canada)
Capital Group Multi-Sector Income Fund (Canada)
Capital Group U.S. Equity Fund (Canada)
Capital Group World Bond Fund (Canada)
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 24, 2024
NP 11-202 Final Receipt dated May 28, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06114929

Issuer Name:
Brandes Canadian Equity Fund
Brandes Canadian Money Market Fund
Brandes Corporate Focus Bond Fund
Brandes Emerging Markets Value Fund
Brandes Global Equity Fund
Brandes Global Opportunities Fund
Brandes Global Small Cap Equity Fund
Brandes International Equity Fund
Brandes U.S. Equity Fund
Bridgehouse Canadian Bond Fund
GQG Partners Global Quality Equity Fund
GQG Partners International Quality Equity Fund
GQG Partners U.S. Quality Equity Fund
Lazard Defensive Global Dividend Fund
Lazard Global Balanced Income Fund
Lazard Global Compounders Fund
Lazard International Compounders Fund
Nuveen Global Green Bond Fund
Sionna Canadian Equity Fund
Sionna Opportunities Fund
Sionna Strategic Income Fund
T. Rowe Price Global Allocation Fund (formerly Morningstar Balanced Portfolio)
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 21, 2024
NP 11-202 Final Receipt dated May 29, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06117265

Issuer Name:
Sprott Physical Copper Trust
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated May 31, 2024
NP 11-202 Final Receipt dated May 31, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06129605

Issuer Name:
EdgePoint Canadian Growth & Income Portfolio
EdgePoint Canadian Portfolio
EdgePoint Global Growth & Income Portfolio
EdgePoint Global Portfolio
EdgePoint Monthly Income Portfolio
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 27, 2024
NP 11-202 Final Receipt dated May 28, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06119461

Issuer Name:
NBI Target 2025 Investment Grade Bond Fund
NBI Target 2026 Investment Grade Bond Fund
NBI Target 2027 Investment Grade Bond Fund
NBI Target 2028 Investment Grade Bond Fund
NBI Target 2029 Investment Grade Bond Fund
Principal Regulator – Quebec
Type and Date:
Preliminary Simplified Prospectus dated May 30, 2024
NP 11-202 Preliminary Receipt dated May 30, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06138059

Issuer Name:
NEI Global Corporate Leaders Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated May 28, 2024
NP 11-202 Preliminary Receipt dated May 28, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06136837

Issuer Name:
MM Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 29, 2024
NP 11-202 Final Receipt dated May 30, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06119923

Issuer Name:
Beutel Goodman American Equity Fund
Beutel Goodman Balanced Fund
Beutel Goodman Canadian Dividend Fund
Beutel Goodman Canadian Equity Fund
Beutel Goodman Core Plus Bond Fund
Beutel Goodman Fundamental Canadian Equity Fund
Beutel Goodman Global Dividend Fund
Beutel Goodman Global Equity Fund
Beutel Goodman Income Fund
Beutel Goodman International Equity Fund
Beutel Goodman Long Term Bond Fund
Beutel Goodman Money Market Fund
Beutel Goodman North American Focused Equity Fund
Beutel Goodman Short Term Bond Fund
Beutel Goodman Small Cap Fund
Beutel Goodman Total World Equity Fund
Beutel Goodman World Focus Equity Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 27, 2024
NP 11-202 Final Receipt dated May 28, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06116604

Issuer Name:
NBI Target 2025 Investment Grade Bond Fund
NBI Target 2026 Investment Grade Bond Fund
NBI Target 2027 Investment Grade Bond Fund
NBI Target 2028 Investment Grade Bond Fund
NBI Target 2029 Investment Grade Bond Fund
Principal Regulator – Quebec
Type and Date:
Preliminary Simplified Prospectus dated Jun 3, 2024
NP 11-202 Preliminary Receipt dated May 30, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06138059

Issuer Name:
Fidelity Canadian Disciplined Equity Fund
Fidelity Canadian Growth Company Fund
Fidelity Canadian Opportunities Fund
Fidelity Greater Canada Fund
Fidelity American Equity Systematic Currency Hedged Fund
Fidelity U.S. Focused Stock Systematic Currency Hedged Fund
Fidelity Small Cap America Systematic Currency Hedged Fund
Fidelity U.S. Dividend Systematic Currency Hedged Fund
Fidelity Women's Leadership Systematic Currency Hedged Fund
Fidelity Global Small Cap Fund
Fidelity Global Small Cap Opportunities Fund
Fidelity Global Health Care Fund
Fidelity Tactical Strategies Fund
Fidelity Global Balanced Portfolio
Fidelity American Balanced Fund
Fidelity American Balanced Currency Neutral Fund
Fidelity Global Income Portfolio
Fidelity Global Growth Portfolio
Fidelity ClearPath 2005 Portfolio
Fidelity American High Yield Currency Neutral Fund
Fidelity Multi-Sector Bond Currency Neutral Fund
Fidelity Canadian High Quality ETF Fund (formerly Fidelity Canadian High Quality Index ETF Fund)
Fidelity Canadian Low Volatility ETF Fund (formerly Fidelity Canadian Low Volatility Index ETF Fund)
Fidelity U.S. Dividend for Rising Rates ETF Fund (formerly Fidelity U.S. Dividend for Rising Rates Index ETF Fund)
Fidelity U.S. Dividend for Rising Rates Currency Neutral ETF Fund (formerly Fidelity U.S. Dividend for Rising Rates Currency Neutral Index ETF Fund)
Fidelity U.S. High Dividend Currency Neutral ETF Fund (formerly Fidelity U.S. High Dividend Currency Neutral Index ETF Fund)
Fidelity U.S. High Quality Currency Neutral ETF Fund (formerly Fidelity U.S. High Quality Currency Neutral Index ETF Fund)
Fidelity U.S. Low Volatility Currency Neutral ETF Fund (formerly Fidelity U.S. Low Volatility Currency Neutral Index ETF Fund)
Fidelity International Low Volatility ETF Fund (formerly Fidelity International Low Volatility Currency Neutral Index ETF Fund)
Fidelity Total Metaverse ETF Fund (formerly Fidelity Total Metaverse Index ETF Fund)
Fidelity Systematic Canadian Bond Index ETF Fund
Fidelity Global Value Long/Short Fund
Fidelity Market Neutral Alternative Fund
Principal Regulator – Ontario
Type and Date:
Amendment No. 6 to Final Simplified Prospectus dated May 16, 2024
NP 11-202 Final Receipt dated May 29, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):

-
Filing #06030295, 06030233, 06030240, 06030348, 06030383, 06030445, 06030493, 06030505, 06030509 & 06030529

Issuer Name:
Hamilton Technology Yield Maximizer ETF
Hamilton U.S. Bond Yield Maximizer ETF
Hamilton U.S. Equity Yield Maximizer ETF
Principal Regulator – Ontario
Type and Date:
Amendment No. 1 to Final Long Form Prospectus dated May 30, 2024
NP 11-202 Final Receipt dated May 31, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06017362

Issuer Name:
NBI Corporate Bond Fund
NBI Canadian Fixed Income Private Portfolio
NBI Diversified Emerging Markets Equity Fund
NBI Diversified Canadian Equity Private Portfolio
NBI Diversified International Equity Private Portfolio
NBI Diversified U.S. Equity Private Portfolio
Principal Regulator – Quebec
Type and Date:
Amendment No. 1 to Final Simplified Prospectus dated May 23, 2024
NP 11-202 Final Receipt dated May 31, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06098447; 06098526; 06098572

Issuer Name:
AGF Fixed Income Plus Class
Principal Regulator – Ontario
Type and Date:
Amendment No. 1 to Final Simplified Prospectus dated May 30, 2024
NP 11-202 Final Receipt dated May 31, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06099853

Issuer Name:
Hamilton Canadian Financials Yield Maximizer ETF
Hamilton Energy Yield Maximizer ETF
Hamilton Gold Producer Yield Maximizer ETF
Hamilton Healthcare Yield Maximizer ETF
Hamilton U.S. Financials Yield Maximizer ETF
Principal Regulator – Ontario
Type and Date:
Amendment No. 2 to Final Long Form Prospectus dated May 30, 2024
NP 11-202 Final Receipt dated May 31, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06059982

NON-INVESTMENT FUNDS

Issuer Name:
Brookfield Corporation
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 31, 2024
NP 11-202 Receipt dated May 31, 2024
Offering Price and Description:
US$3,500,000,000
Debt Securities, Class A Preference Shares, Class A Limited Voting Shares
Filing # 06133890

Issuer Name:
Brookfield Finance II LLC
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 31, 2024
NP 11-202 Receipt dated May 31, 2024
Offering Price and Description:
US$3,500,000,000
Preferred Shares (representing limited liability company interests)
Filing # 06133916

Issuer Name:
Brookfield Finance II Inc.
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 31, 2024
NP 11-202 Receipt dated May 31, 2024
Offering Price and Description:
US$3,500,000,000
Debt Securities
Filing # 06133914

Issuer Name:
Brookfield Finance I (UK) PLC
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 31, 2024
NP 11-202 Receipt dated May 31, 2024
Offering Price and Description:
US$3,500,000,000
Debt Securities
Filing # 06133909

Issuer Name:
Brookfield Finance (Australia) Pty Ltd
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 31, 2024
NP 11-202 Receipt dated May 31, 2024
Offering Price and Description:
US$3,500,000,000
Debt Securities
Filing # 06133906

Issuer Name:
Brookfield Capital Finance LLC
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 31, 2024
NP 11-202 Receipt dated May 31, 2024
Offering Price and Description:
US$3,500,000,000
Debt Securities
Filing # 06133895

Issuer Name:
Brookfield Finance Inc.
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 31, 2024
NP 11-202 Receipt dated May 31, 2024
Offering Price and Description:
US$3,500,000,000
Debt Securities
Filing # 06133893

Issuer Name:
Triple Flag Precious Metals Corp.
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 29, 2024
NP 11-202 Receipt dated May 29, 2024
Offering Price and Description:
Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Warrants, Units
Filing # 06137920

Issuer Name:
Kiwetinohk Energy Corp.
Principal Regulator – Alberta
Type and Date:
Final Shelf Prospectus dated May 24, 2024
NP 11-202 Receipt dated May 28, 2024
Offering Price and Description:
$500,000,000 - Common Shares, Preferred Shares, Subscription Receipts, Warrants, Debt Securities, Units
Filing # 06132597

Issuer Name:
Blackline Safety Corp.
Principal Regulator – Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 28, 2024
NP 11-202 Preliminary Receipt dated May 28, 2024
Offering Price and Description:
$20,047,500
4,950,000 Common Shares
Price: $4.05 per Common Share
Filing # 06134404

Issuer Name:
Solaris Resources Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary Short Form Prospectus dated May 27, 2024
NP 11-202 Preliminary Receipt dated May 28, 2024
Offering Price and Description:
C$35,035,000
7,150,000 Common Shares
Price: C$4.90 per Offered Share
Filing # 06134120

Issuer Name:
Pineapple Financial Inc.
Principal Regulator – Ontario
Type and Date:
Amendment to Preliminary Long Form Prospectus dated May 27, 2024
NP 11-202 Amendment Receipt dated May 28, 2024
Offering Price and Description:
No securities are being offered pursuant to this prospectus
Filing # 06087892

Issuer Name:
ALEEN INC.
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated May 31, 2024
Preliminary Receipt dated May 31, 2024
Offering Price and Description:
No securities are being offered pursuant to this prospectus
Filing # 06138319

Issuer Name:
BluSky Carbon Inc.
Principal Regulator – British Columbia
Type and Date:
Final Long Form Prospectus dated May 27, 2024
NP 11-202 Receipt dated May 29, 2024
Offering Price and Description:
Minimum Offering: $3,000,000 or 6,000,000 Units
Maximum Offering: $5,000,000 or 10,000,000 Units
Over-Allotment Option: Up to $750,000
Up to 1,500,000 Units
Price: $0.50 per Unit
and
4,610,000 previously issued Subscription Receipts at a price of $0.40 per Subscription Receipt
Filing # 06058366

B.10
Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: Horizons ETFs Management (Canada) Inc. To: Global X Investments Canada Inc.	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer, Commodity Trading Manager and Commodity Trading Adviser	May 1, 2024
Change in Registration Category	MEADOWBANK ASSET MANAGEMENT INC.	From: Portfolio Manager and Exempt Market Dealer To: Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	June 3, 2024

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B.11
CIRO, Marketplaces, Clearing Agencies and Trade Repositories

B.11.2 Marketplaces

B.11.2.1 LMAX Pte. Ltd. – Application for Exemption from Recognition as an Exchange and from the Marketplace Rules – Notice of Commission Order

NOTICE OF COMMISSION ORDER

APPLICATION BY
LMAX PTE. LTD.
FOR EXEMPTION FROM RECOGNITION AS
AN EXCHANGE AND FROM THE MARKETPLACE RULES

On May 28, 2024, the Commission issued an order (**Order**) exempting LMAX Pte. Ltd. (**Applicant**) from:

a. the requirement to be recognized as an exchange under subsection 21(1) of the *Securities Act* (Ontario) (**Act**) pursuant to section 147 of the Act; and

b. the requirements of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (**NI 23-101**) pursuant to section 12.1 of NI 23-101, and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) pursuant to section 10 of NI 23-103.

A copy of the Order is published in Chapter B.2 of the OSC Bulletin published on June 6, 2024.

The Commission published the Applicant's application and draft order for comments on April 25, 2024 in the OSC Bulletin and the OSC website. No comments were received. No changes were made to the draft order published for comment.

The Order is consistent with Staff Notice 21-702 – *Regulatory Approach for Foreign-Based Stock Exchanges* and the updated exemption criteria included in Appendix 1 to Schedule A of the Order.

B.11.2.2 Alpha Exchange Inc. – Proposed Amendments and Request for Comments – Notice

NOTICE OF
PROPOSED AMENDMENTS AND REQUEST FOR COMMENTS

ALPHA EXCHANGE INC.

Alpha Exchange Inc. ("**Alpha**") is publishing this Notice of Proposed Amendments and Request for Comments in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto" regarding certain amendments to how Self-Trade Management interacts with Self-Trade Prevention on Alpha, as described below (the "**Amendments**").

Market participants are invited to provide comments. Comments should be in writing and delivered by July 8, 2024 to:

Joanne Sanci
Senior Counsel, Regulatory Affairs
TMX Group
100 Adelaide Street West, Suite 300
Toronto, Ontario M5H 1S3
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Trading & Markets Division
Ontario Securities Commission
20 Queen Street West
Toronto, Ontario M5H 3S8
Email: marketregulation@osc.gov.on.ca

Comments will be made publicly available unless confidentiality is requested. Upon completion of the review by staff at the Ontario Securities Commission ("**OSC**"), and in the absence of any regulatory concerns, a notice will be published to confirm approval by the OSC.

Background, Outline and Rationale for the Amendments

Self-trade prevention (or "**STP**") is an optional order feature that prevents two orders from the same broker from executing against each other based on unique trading keys defined by the broker. These features provide more opportunities for individuals to participate on both sides of the market (ie. buy/sell) without unintentionally violating 'wash trading' rules under the Universal Market Integrity Rules ("**UMIR**"). UMIR permits participants to place buy and sell orders on a market for a given stock at the same price so long as that participant only trades with others and does not cross its own orders. Preventing self-trading ensures there is no misleading appearance of additional trading in a stock.

Certain solutions to assist trading participants in managing accidental trades with themselves ("**wash trades**") are currently available on Alpha, Toronto Stock Exchange, and TSX Venture, including, for example:

(i) Cancel Newest Self-Trade Prevention;

(ii) Cancel Oldest Self-Trade Prevention;

(iii) Decrement Largest and Cancel Smallest Self-Trade Prevention;

(iv) Self-Trade Management Order Feature ("**STM**"); and

(v) Do Not Trade Self-Trade Prevention (known as "No Cancel (XM)" on Alpha DRK).

STM is an optional trading feature that suppresses trades from the public feed where orders on both sides of the trade are from the same broker and contain the same "self-trade key" defined by the broker. When a self-trade occurs, the order in the book appears on the public datafeed (or **"public tape**") as a cancelled or updated order, and no trade report is published. That trade is, however, reported to CDS. As these trades are suppressed from the public tape, the trades do not update the last sale price, or any trading statistics such as daily volume and share turnover.

STP proactively stops an order from the same broker from executing against each other by using unique trade keys, thereby avoiding the trade. In contrast, STM allows the orders to execute, but suppresses the resulting trade from the public datafeed.

Matching STM and STP orders with the same self-trade key will not prevent execution. As such, if an order with STM matches against an order with STP, the trade will be executed and will appear on the public tape. This trade will update the last sale price, and any trading statistics (such as daily volume and share turnover) until such time as the dealer may instruct Alpha to cancel.

Alpha is proposing to refine the approach regarding the handling of self trades within our trading system. Pursuant to the Amendments, rather than publishing a trade to the public tape that is executed between a STM and STP (even where both orders have matching self-trade keys), we are proposing that when the keys from STM and STP orders are matching, such trade be suppressed from the public tape, consistent with the STM to STM functionality. As such unintentional trade is from the same participant organization and trader representing both sides of the trade, the trade should not contribute towards the last sale price or any trading statistic such as daily volume and share turnover. This adjustment aims to streamline the handling of STP and STM behaviour for our vendors and participants, allows our trading participants to prevent wash trades more effectively, and brings TMX markets in line with other Canadian equity marketplaces, like Canadian Securities Exchange, Nasdaq Canada, and CBOE Canada.

Blackline of the Amendments

For ease of reference, a blackline of the Amendments against the existing rules is attached as Appendix A hereto, and a clean version of the Amendments is attached as Appendix B hereto.

Analysis of Impact

(i) Impact on Market

We anticipate that the Amendments will have a positive impact on the market structure, members, investors, issuers or the capital markets. Alpha believes that the Amendments are fair and reasonable, and will not create barriers to access.

(ii) Impact on Clients and Service Vendors

Participants will not be required to update their routing methodology and trading strategies to take the Amendments into account. Technical developments are not required for participants to take the Amendments into account.

(iii) Impact on Compliance with Applicable Securities Laws

The Amendments will not impact Alpha's compliance with applicable securities law and in particular the requirements for fair access and maintenance of fair and orderly markets. As noted above, Alpha is of the view that the Amendments will support the maintenance of fair and orderly markets.

Consultations Undertaken in Formulating the Amendments

In formulating the Amendments, the internal governance process for TSX was followed, which included receipt of the appropriate management-level approval, and all applicable internal groups at TSX were consulted.

Any alternatives considered

No alternatives were considered.

Do the Amendments Currently Exist in Other Markets or Jurisdictions

The Amendments currently exist in other marketplaces in Canada, such as Canadian Securities Exchange, Nasdaq Canada, and CBOE Canada.

Timing

Alpha intends to implement the Amendments in the Q3 of 2024, subject to regulatory approval.

APPENDIX A

BLACKLINED VERSION OF ALPHA RULES REFLECTING THE AMENDMENTS

[...]

Change History

Version	Change	Date
[...]		
V.1.11	Changes to Self-Trade Management	*, 2024
[...]		

5.13 Self Trade Management

(1) Alpha Self Trade Management is a designation that suppresses trades that occur in the Continuous Trading Session in the CLOB from the public feed, where orders on both sides of the trade are from the same Member and contain the same "self trade key" set by the Member. If the Self Trade Management instruction matches with a self trade prevention instruction with matching self-trade keys, this trade will be suppressed from the public feed.

(2) Self Trade Management applies only to unintentional trading (e.g. does not apply to Crosses).

(3) The designation is only applicable in Continuous Trading in CLOB.

(4) Self trades that occur in the CLOB Continuous Trading Session are not disseminated on the public trade messages and do not update the last sale price, daily volume and turnover, or other trading statistics.

(5) The designation is applicable to board lot orders and board lot portion of mixed lot orders.

Commentary: The unique trading key provided by the Member for Self Trade Management is intended for use only on buy and sell orders for accounts that may result in trades where there is no change in beneficial or economic ownership.

APPENDIX B

CLEAN VERSION OF ALPHA RULES REFLECTING THE AMENDMENTS

[...]

Change History

Version	Change	Date
[...]		
V.1.11	Changes to Self-Trade Management	*, 2024
[...]		

5.13 Self Trade Management

(1) Alpha Self Trade Management is a designation that suppresses trades that occur in the Continuous Trading Session in the CLOB from the public feed, where orders on both sides of the trade are from the same Member and contain the same "self trade key" set by the Member. If the Self Trade Management instruction matches with a self trade prevention instruction with matching self-trade keys, this trade will be suppressed from the public feed.

(2) Self Trade Management applies only to unintentional trading (e.g. does not apply to Crosses).

(3) The designation is only applicable in Continuous Trading in CLOB.

(4) Self trades that occur in the CLOB Continuous Trading Session are not disseminated on the public trade messages and do not update the last sale price, daily volume and turnover, or other trading statistics.

(5) The designation is applicable to board lot orders and board lot portion of mixed lot orders.

Commentary: The unique trading key provided by the Member for Self Trade Management is intended for use only on buy and sell orders for accounts that may result in trades where there is no change in beneficial or economic ownership.

B.11.2.3 TSX Inc. – Proposed Amendments and Request for Comments – Notice

NOTICE OF
PROPOSED AMENDMENTS AND REQUEST FOR COMMENTS

TSX INC.

TSX Inc. ("**TSX**") is publishing this Notice of Proposed Amendments and Request for Comments in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto" regarding certain changes to how Self-Trade Management interacts with Self-Trade Prevention on TSX, as described below (the "**Changes**").

Market participants are invited to provide comments. Comments should be in writing and delivered by July 8, 2024 to:

Joanne Sanci
Senior Counsel, Regulatory Affairs
TMX Group
100 Adelaide Street West, Suite 300
Toronto, Ontario M5H 1S3
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Trading & Markets Division
Ontario Securities Commission
20 Queen Street West
Toronto, Ontario M5H 3S8
Email: marketregulation@osc.gov.on.ca

Comments will be made publicly available unless confidentiality is requested. Upon completion of the review by staff at the Ontario Securities Commission ("**OSC**"), and in the absence of any regulatory concerns, a notice will be published to confirm approval by the OSC.

Background, Outline and Rationale for the Changes

Self-trade prevention (or "**STP**") is an optional order feature that prevents two orders from the same broker from executing against each other based on unique trading keys defined by the broker. These features provide more opportunities for individuals to participate on both sides of the market (ie. buy/sell) without unintentionally violating 'wash trading' rules under the Universal Market Integrity Rules ("**UMIR**"). UMIR permits participants to place buy and sell orders on a market for a given stock at the same price so long as that participant only trades with others and does not cross its own orders. Preventing self-trading ensures there is no misleading appearance of additional trading in a stock.

Certain solutions to assist trading participants in managing accidental trades with themselves ("**wash trades**") are currently available on TSX, TSX Alpha Exchange and TSX Venture, including, for example:

(i) Cancel Newest Self-Trade Prevention;

(ii) Cancel Oldest Self-Trade Prevention;

(iii) Decrement Largest and Cancel Smallest Self-Trade Prevention;

(iv) Self-Trade Management Order Feature ("**STM**"); and

(v) Do Not Trade Self-Trade Prevention (known as "No Cancel (XM)" on Alpha DRK).

STM is an optional trading feature that suppresses trades from the public feed where orders on both sides of the trade are from the same broker and contain the same "self-trade key" defined by the broker. When a self-trade occurs, the order in the book appears on the public datafeed (or **"public tape**") as a cancelled or updated order, and no trade report is published. That trade is, however, reported to CDS. As these trades are suppressed from the public tape, the trades do not update the last sale price, or any trading statistics such as daily volume and share turnover.

STP proactively stops an order from the same broker from executing against each other by using unique trade keys, thereby avoiding the trade. In contrast, STM allows the orders to execute, but suppresses the resulting trade from the public datafeed.

Matching STM and STP orders with the same self-trade key will not prevent execution. As such, if an order with STM matches against an order with STP, the trade will be executed and will appear on the public tape. This trade will update the last sale price, and any trading statistics (such as daily volume and share turnover) until such time as the dealer may instruct TSX to cancel.

TSX is proposing to refine the approach regarding the handling of self trades within our trading system. Pursuant to the Changes, rather than publishing a trade to the public tape that is executed between a STM and STP (even where both orders have matching self-trade keys), we are proposing that when the keys from STM and STP orders are matching, such trade be suppressed from the public tape, consistent with the STM to STM functionality. As such unintentional trade is from the same participant organization and trader representing both sides of the trade, the trade should not contribute towards the last sale price or any trading statistic such as daily volume and share turnover. This adjustment aims to streamline the handling of STP and STM behaviour for our vendors and participants, allows our trading participants to prevent wash trades more effectively, and brings TMX markets in line with other Canadian equity marketplaces, like Canadian Securities Exchange, Nasdaq Canada, and CBOE Canada.

Amendments to the Toronto Stock Exchange Rule Book are not required in order to take into account the Changes.

Analysis of Impact

(i) Impact on Market

We anticipate that the Changes will have a positive impact on the market structure, members, investors, issuers or the capital markets. TSX believes that the Changes are fair and reasonable, and will not create barriers to access.

(ii) Impact on Clients and Service Vendors

Participants will not be required to update their routing methodology and trading strategies to take the Changes into account. Technical developments are not required for participants to take the Changes into account.

(iii) Impact on Compliance with Applicable Securities Laws

The Changes will not impact TSX's compliance with applicable securities law and in particular the requirements for fair access and maintenance of fair and orderly markets. As noted above, TSX is of the view that the Changes will support the maintenance of fair and orderly markets.

Consultations Undertaken in Formulating the Changes

In formulating the Changes, the internal governance process for TSX was followed, which included receipt of the appropriate management-level approval, and all applicable internal groups at TSX were consulted.

Any alternatives considered

No alternatives were considered.

Do the Changes Currently Exist in Other Markets or Jurisdictions

The Changes currently exist in other marketplaces in Canada, such as Canadian Securities Exchange, Nasdaq Canada, and CBOE Canada.

Timing

TSX intends to implement the Changes in the Q3 of 2024, subject to regulatory approval.

B.11.3 Clearing Agencies

B.11.3.1 Canadian Derivatives Clearing Corporation (CDCC) – Proposed Amendments to the Rules of the CDCC Regarding Voluntary Withdrawal and the Limited Liability of Clearing Members – Notice of Material Rule Submission

NOTICE OF MATERIAL RULE SUBMISSION

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

PROPOSED AMENDMENTS TO
THE RULES OF THE CDCC REGARDING VOLUNTARY WITHDRAWAL AND
THE LIMITED LIABILITY OF CLEARING MEMBERS

CDCC has submitted to the Commission proposed amendments to the CDCC Rules regarding the voluntary withdrawal and the limited liability of Clearing Members.

The purpose of the proposed amendments, which are subject to Commission approval, is to limit withdrawing Clearing Members' exposure to one Default Management Period ("**DMP**") following the closing of their outstanding positions and to consolidate in the CDCC Rules all aspects of the definition of the DMP.

The proposed amendments have been posted for public comment on CDCC's **website**. The comment period ends on July 5, 2024.

B.12
Other Information

B.12.1 Consents

B.12.1.1 Blue Sky Global Energy Corp. – s. 21(b) of Ont. Reg. 398/21 of the OBCA

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under Business Corporations Act (Alberta).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 398/21, as am., s. 21(b).

May 27, 2024

IN THE MATTER OF
ONTARIO REGULATION 398/21,
AS AMENDED
(the "Regulation")

MADE UNDER THE
BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990 c. B.16,
AS AMENDED
(the "OBCA")

AND

IN THE MATTER OF
BLUE SKY GLOBAL ENERGY CORP.
(the "Applicant")

CONSENT
(Subsection 21(b) of the Regulation)

UPON the application (the "**Application**") of the Applicant to the Ontario Securities Commission (the "**Commission**") requesting the consent of the Commission pursuant to subsection 21(b) of the Regulation, for the Applicant to continue into the Province of Alberta pursuant to section 181 of the OBCA (the "**Continuance**");

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is an offering corporation under the OBCA.

2. The authorized capital of the Applicant consists of an unlimited number of common shares (the "**Common Shares**"). As of May 13, 2024, 52,270,271 Common Shares were issued and outstanding. All of the issued and outstanding Common Shares of the Applicant are listed for trading on the TSX Venture Exchange ("**TSXV**") under the ticker "BGE".

3. The Applicant intends to apply to the Director under the OBCA pursuant to Section 181 of the OBCA for authorization to continue into the Province of Alberta under the *Business Corporations Act* (Alberta) (the "**ABCA**").

4. The Applicant is a reporting issuer under the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "**Act**") and the securities legislation in each of Ontario, British Columbia and Alberta (together with the Act, the "**Legislation**").

5. Following the Continuance, the Applicant will remain a reporting issuer in Ontario and in each of the other Canadian jurisdictions where it is currently a reporting issuer.

6. The Applicant is not in default of any of the provisions of the OBCA or the Legislation, including the regulations or rules made thereunder.

7. The Applicant is not in default of any provision of the rules, regulations or policies of the TSXV.

8. The Applicant is not subject to any proceeding under the OBCA or the Legislation.

9. The Commission is the principal regulator of the Applicant. Following the Continuance, it is anticipated that the principal regulator will be the Alberta Securities Commission.

10. The common shares of the Applicant will continue to be listed on the TSXV following the Continuance.

11. A summary of the material provisions respecting the Continuance was provided to the shareholders of the Applicant in the management information circular of the Applicant dated March 21, 2024 (the "**Circular**") in respect of the Applicant's annual general and special meeting of shareholders held on April 29, 2024 (the "**Meeting**"). The Circular was mailed to shareholders of record at the close of business on March 25, 2024 and was filed electronically on SEDAR+ on April 8, 2024.

12. The Circular included the reasons for the Continuance and its implications. The Circular also disclosed full particulars of the dissent rights of the Applicant's shareholders under section 185 of the OBCA.

13. The board of directors of the Applicant has submitted that the principal reason for the Continuance is to improve the Applicant's administration and efficiency, thereby realizing significant cost savings and being advantageous to shareholders, as the Applicant's primary office will be located in Alberta and the Applicant is traded solely on the TSXV.

14. The Applicant's shareholders authorized the Continuance at the Meeting by a special resolution that was approved by 97.56% of the votes cast. No shareholder exercised dissent rights pursuant to section 185 of the OBCA.

15. The material rights, duties and obligations of a corporation governed by the ABCA are substantially similar to those of a corporation governed by the OBCA.

16. Following the Continuance, the Applicant's name will remain the same.

17. The Applicant's head office is located at 100 King St. West, Suite 6000, 1 First Canadian Pl., Toronto, Ontario, M5X 1E2. Following the Continuance, the Applicant's head office will be relocated to 215 – 9 Avenue SW, Suite 800, Calgary T2P 1K3.

18. Subsection 21(b) of the Regulation requires the application for continuance be accompanied by a consent from the Commission.

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

THE COMMISSION CONSENTS to the Continuance of the Applicant under the ABCA.

DATED at Toronto, Ontario this 27th day of May, 2024.

"Marie-France Bourret"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2024/0316

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