The Ontario Securities Commission

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October 3, 2024

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The Ontario Securities Commission carries out the powers, duties and functions given to it pursuant to the *Securities Commission Act, 2021* (S.O. 2021, c. 8, Sched. 9).

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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ARBITRADE LTD.,
T.J.L. PROPERTY MANAGEMENT INC. AND
GABLES HOLDINGS INC.,
File No. 2022-20

TORONTO – The hearing with respect to sanctions and costs scheduled for September 30, 2024, at 10:00 a.m. 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.

Registrar, Governance & Tribunal Secretariat
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A.2.2 Go-To Developments Holdings Inc. et al.

FOR IMMEDIATE RELEASE
September 30, 2024

GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO,
File No. 2022-8

TORONTO – The previously scheduled hearing day of December 4, 2024 will not be used for the merits hearing in the above-named matter. The merits hearing will continue on December 10, 2024 at 10:00 a.m.

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
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A.2.3 Mark Edward Valentine

FOR IMMEDIATE RELEASE
October 1, 2024

MARK EDWARD VALENTINE,
File No. 2022-7

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 September 30, 2024 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
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A.3
Orders

A.3.1 Mark Edward Valentine – ss. 127(1), 127.1

IN THE MATTER OF
MARK EDWARD VALENTINE

File No. 2022-7

Adjudicators: Cathy Singer (chair of the panel)
Geoffrey D. Creighton
Dale R. Ponder

September 30, 2024

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

WHEREAS on July 3, 2024, the Capital Markets Tribunal held a hearing by videoconference to consider the sanctions and costs that the Tribunal should impose on Mark Edward Valentine as a result of the findings in the Reasons and Decision on the merits issued on March 20, 2024, where Valentine was found to have breached a 2004 order of the Commission which banned him from acting as a director or officer of an issuer (the **D&O Ban**) and from trading in securities for 15 years (the **Trading Ban**);

ON READING the materials filed by the parties, and on hearing the submissions of the representatives for the Ontario Securities Commission and for Valentine;

IT IS ORDERED THAT:

1. pursuant to paragraph 2 of subsection 127(1) of the *Securities Act* (***Act***), trading in any securities or derivatives by Valentine shall cease permanently;

2. pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Valentine is prohibited permanently;

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

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

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

6. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Valentine is permanently prohibited from becoming or acting as a registrant, including as an investment fund manager, or as a promoter;

7. pursuant to paragraph 9 of subsection 127(1) of the *Act*, Valentine shall pay:

   a. an administrative penalty of $500,000 for Valentine's breach of the D&O Ban; and

   b. an administrative penalty of $500,000 for Valentine's breaches of the Trading Ban;

8. pursuant to paragraph 10 of subsection 127(1) of the *Act*, Valentine shall disgorge to the Commission $3,257,639.75 and US$10,732,503; and

9. pursuant to section 127.1 of the *Act*, Valentine shall pay to the Commission $300,000 for the costs of the investigation and hearing.

"Cathy Singer"

"Geoffrey D. Creighton"

"Dale R. Ponder"

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A.4
Reasons and Decisions

A.4.1 Mark Edward Valentine – ss. 127(1), 127.1

Citation: *Valentine (Re)*, 2024 ONCMT 21
Date: 2024-09-30
File No. 2022-7

IN THE MATTER OF
MARK EDWARD VALENTINE

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

Adjudicators:	Cathy Singer (chair of the panel) Geoffrey D. Creighton Dale R. Ponder	
Hearing:	By videoconference, July 3, 2024	
Appearances:	Andrew Faith Ryan Lapensee Sean Grouhi	For the Ontario Securities Commission
	Greg Temelini Janice Wright	For Mark Edward Valentine

REASONS AND DECISION

1. OVERVIEW

[1] In a decision on the merits dated March 20, 2024 (the **Merits Decision**),[1] the Capital Markets Tribunal found that Mark Edward Valentine breached a 2004 order of the Ontario Securities Commission which banned him permanently from acting as a director or officer of an issuer, and from trading in securities for 15 years (the **2004 Order**). By breaching the 2004 Order, he violated Ontario securities law.

[2] The Commission asks that we impose sanctions against Valentine pursuant to s. 127(1) of the *Securities Act* (the ***Act***),[2] and that we order him to pay a portion of the Commission's costs of the investigation and this proceeding.

[3] Valentine accepts the permanent market participation bans and disgorgement order sought against him, but does not accept the requested administrative penalties and costs orders.

[4] For the reasons set out below, we conclude it would be in the public interest to order that Valentine:

a. be permanently banned from participation in the securities market;

b. disgorge to the Commission $3,257,639.75 and US$10,732,503;[3]

c. pay administrative penalties totaling $1,000,000; and

d. pay $300,000 in respect of the Commission's costs.

2. BACKGROUND

[5] On December 16, 2004, Valentine entered into a settlement agreement with the Commission based on certain breaches of Ontario securities law. The settlement agreement led to the 2004 Order against Valentine to:

1 *Valentine (Re)*, 2024 ONCMT 11
2 RSO 1990, c S.5
3 Unless otherwise indicated, all references to currency in these reasons are to Canadian dollars.

a. resign all positions he held as a director or officer of an issuer;

b. be permanently prohibited from becoming or acting as a director or officer of any issuer (a. and b. collectively the **D&O Ban**); and

c. cease trading in securities for a period of 15 years (the **Trading Ban**).

[6] In 2022, the Commission alleged that Valentine breached these prohibitions by:

a. acting as a director and officer of many Ontario corporations;

b. participating in the sale of over 5 million shares in a corporation called Flyp Technologies Inc. (the **Flyp Sale**); and

c. participating in several "Stock Secured Financings", which were transactions involving trades of securities;

and as a result, violated Ontario securities law once again.

[7] Over the course of the merits hearing, Valentine admitted to the first two alleged breaches, and disputed the third.

[8] In the Merits Decision, we found that Valentine breached the D&O Ban by acting as a director and/or officer of 38 Ontario corporations, breached the Trading Ban by participating in the Flyp Sale, and further breached the Trading Ban by participating in the Stock Secured Financings.

[9] We dismissed an additional allegation against Valentine that he engaged in "conduct contrary to the public interest", having found no evidence of additional conduct warranting an order under s. 127 of the *Act*.

3. ANALYSIS

3.1 Introduction

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

[11] Sanctions are protective and are intended to prevent future harm to investors and to the capital markets.[4]

[12] In this case, the Commission seeks the following sanctions and costs against Valentine:

a. permanent prohibitions on his ability to participate in Ontario's capital markets;

b. administrative penalties of $2,000,000, representing $1,000,000 for the breach of the D&O Ban, and $1,000,000 for the breaches of the Trading Ban;

c. disgorgement of $3,257,639.75 and US$10,732,503; and

d. costs of $343,569.30.

[13] Valentine accepts the permanent market participation bans and disgorgement order sought against him, and proposes alternative administrative penalties (totalling $500,000) and an alternative costs order of $175,000.

[14] We will address each of the requested sanctions and costs orders in turn. We begin with a discussion of well-established sanctioning factors[5] that apply in this case.

3.2 Sanctioning factors

3.2.1 Seriousness of the misconduct

[15] The Commission submits that Valentine's misconduct involved a significant degree of seriousness for the following reasons:

a. Valentine's breaches of the 2004 Order began immediately once that order came into force;

4 *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at para 42
5 *Belteco Holdings Inc (Re)*, (1998) 21 OSCB 7743 at 7746

b. Valentine breached the 2004 Order continuously for nearly two decades; and

c. Valentine breached the 2004 Order in three separate respects.

[16] The Commission asks us to infer from the above that Valentine settled with the Commission in 2004 as a means of getting rid of the settled proceeding, with no real intention of being bound by the terms of the settlement.

[17] We decline to draw the inference the Commission invites us to, concerning Valentine's intentions in respect of the 2004 Order. There is insufficient evidence in the record to support such an inference.

[18] Valentine declined to testify in this proceeding, both at the hearing on the merits, and at the sanctions hearing. That is undoubtedly his right and we draw no inference from it. The result of that choice, nevertheless, is that we have no evidence from Valentine to explain his serious and repeated breaches of the 2004 Order.

[19] Valentine submits that he recognizes and accepts that his misconduct was serious, and warrants significant sanctions in the form of permanent market participation bans and the large disgorgement order sought by the Commission. Valentine notes that there is no evidence that any investor lost any funds. Nor is there any evidence that, apart from breaching the 2004 Order, his conduct was in any other way unlawful, or ran afoul of the *Act*.

[20] Valentine's misconduct was very serious. He repeatedly breached the 2004 Order immediately upon its issuance, over an extended period and in multiple transactions. Respect for and compliance with Tribunal orders is a critical element in the regulation of Ontario's capital market. A breach of a Tribunal order shows a disregard for the rule of law as well as for the Tribunal and its processes and undermines public confidence in capital markets.[6]

[21] We conclude that the misconduct is serious, and calls for serious sanctions.

3.2.2 Valentine's experience in the capital markets and history of misconduct

[22] There is no doubt that Valentine has significant experience in the capital markets. Nor is he a stranger to enforcement proceedings.

[23] The Commission asks us to review Valentine's prior history of misconduct when considering what sanctions to order against him – including the misconduct that led to the 2004 Order and a U.S. criminal securities fraud conviction.

[24] Valentine's history is relevant to determining sanctions sufficient to deter Valentine from future breaches of Ontario securities law (including any order that arises from this proceeding), and to deter others from breaching orders of the Tribunal.

[25] As detailed in the Merits Decision, Valentine was the Chairman, a director and the largest shareholder of the now defunct Thomson Kernaghan & Co. Ltd., a registered investment dealer (**TK**). Valentine was himself a registrant with the Investment Dealers' Association of Canada (a predecessor of CIRO).

[26] Misconduct by Valentine in his roles at TK led to the 2004 Order. Also in 2004, he pleaded guilty to one criminal count of securities fraud in a U.S. court, was sentenced to probation and home detention, and was deported from the U.S.

[27] This history establishes that Valentine has had significant experience in capital markets and has been subject to prior enforcement proceedings. He was represented by counsel in respect of the settlement that gave rise to the 2004 Order. Put simply, he should have known better.

3.2.3 Recurrence of misconduct

[28] Valentine's breaches of the D&O Ban and Trading Ban were recurrent. Valentine began breaching the 2004 Order immediately after it came into effect and continued to do so for approximately 19 years.

[29] He failed to resign from two existing director and officer positions he held at the time of the 2004 Order, and then over subsequent years became a director and/or officer of 36 additional Ontario corporations.

[30] Although Valentine's participation in the Flyp Sale could be considered a one-time event, his trading activity in relation to the Stock Secured Financings was recurrent and there was evidence that Valentine obtained compensation for his involvement in those transactions over a period of at least three years.

[31] On a scale of isolated to recurrent, Valentine's misconduct was firmly at the recurrent end.

[6] *Stinson (Re)*, 2023 ONCMT 50 at para 18

3.2.4 Mitigating factors

[32] The Commission submits that there are no mitigating factors present in this case.

[33] The Commission submits that there is no evidence that Valentine recognizes the seriousness of his misconduct, and his admissions came at such a late stage in the hearing process that the Commission was still required to investigate the breaches, commence this proceeding, prove the allegations and incur significant costs. The Commission also submits that Valentine gave false or misleading answers to questions about the Stock Secured Financings during his compelled examinations which negates any mitigating impact of his later admissions.

[34] Valentine submits that there are mitigating factors present, including Valentine's conduct during the merits hearing leading to multiple efficiencies. This conduct is relevant to our costs analysis, and is discussed in more detail below in that context.

[35] On the question of mitigation as it relates to sanctions (as opposed to conduct relevant to costs) we find there are no substantial mitigating factors in this case. As noted, we have no evidence of Valentine's state of mind or any explanation for the breaches. Though, in his submissions, he states that he recognizes the findings against him are serious, there is no evidence of any remorse on his part.

[36] We give no weight to the Commission's submission that Valentine gave false or misleading answers in his compelled examinations. This allegation was not made in the Statement of Allegations, nor was there any finding to that effect in the Merits Decision.

3.2.5 Specific and general deterrence

[37] The final factor to consider is the likely effect that any sanction would have on Valentine ("specific deterrence") as well as on others ("general deterrence").

[38] Valentine's conduct was serious, and the sanctions against him must be appropriately crafted to achieve specific and general deterrence. They must make clear how serious it is to breach a Tribunal order.

[39] Valentine submits that the sanctions he has agreed to (market participation bans and disgorgement order), and the alternative sanctions he proposes (including $500,000 in administrative penalties), achieve both specific and general deterrence. Whether they are enough, however, we will address below in the discussion of administrative penalties.

3.3. Market participation bans

[40] The Commission asks that we impose permanent restrictions on Valentine's participation in Ontario's capital markets. Specifically, the Commission asks for an order that:

a. trading in any securities or derivatives by Valentine cease permanently;

b. the acquisition of any securities by Valentine cease permanently;

c. any exemptions in Ontario securities laws do not apply to Valentine permanently;

d. Valentine resign any positions as a director and/or officer of any issuer or registrant, including an investment fund manager;

e. Valentine be prohibited permanently from becoming or acting as a director and/or officer of any issuer or registrant, including an investment fund manager; and

f. Valentine be prohibited permanently from becoming or acting as a registrant, including an investment fund manager, or as a promoter.

[41] Valentine accepts the permanent market participation bans sought by the Commission as in the public interest. We agree. Permanent market participation bans reflect the seriousness of Valentine's misconduct and are necessary as an element of specific and general deterrence.

3.4 Administrative penalties

3.4.1 Introduction

[42] 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 $1,000,000 for each

failure to comply. The Commission seeks administrative penalties of $1,000,000 for Valentine's breach of the D&O Ban and another $1,000,000 for his breaches of the Trading Ban.

[43] There is no formula for determining the quantum of an administrative penalty. In the past the Tribunal has emphasized the seriousness of the misconduct and the importance of specific and general deterrence as particularly relevant to determining the appropriate amount of an administrative penalty.[7]

[44] When ordering administrative penalties, the Tribunal must take care to avoid amounts that are so low that they may be viewed as a cost of doing business or a licence fee for unscrupulous market participants.[8]

[45] In deciding the appropriate administrative penalties, we have also taken a global view of the sanctions imposed on Valentine, taking into account the disgorgement order and market participation bans.

[46] Valentine submits that administrative penalties of $200,000 for the breach of the D&O Ban and $300,000 for the breaches of the Trading Ban are appropriate and in the public interest. A $2,000,000 administrative penalty, in addition to disgorgement and permanent market participation bans, he submits is too severe, punitive and outside the range of administrative penalties imposed in other cases.

[47] We conclude that an administrative penalty of $500,000 for the breach of the D&O Ban, and of $500,000 for the breaches of the Trading Ban, are appropriate in this case.

3.4.2 Breach of the D&O Ban

[48] The Commission submits that a $1,000,000 administrative penalty for Valentine's breach of the D&O Ban is reasonable, reflects its seriousness, and is in the public interest given the unprecedented nature of the misconduct, which involved 38 private companies over approximately 19 years.

[49] The Commission submits that we ought not consider ourselves bound by decisions of other Canadian securities regulatory authorities outside Ontario, which have ordered administrative penalties in the range of $10,000 to $200,000 against respondents for breaches of a director and officer ban involving primarily private companies.[9] In those cases, the Commission argues, the respondents only breached the relevant orders by acting as *de facto* or *de jure* directors and/or officers of a small number of companies, and, in many cases, there was no evidence that the companies conducted much business or resulted in much benefit flowing to the respondents.

[50] The $1,000,000 figure proposed by the Commission, it submits, represents a sum of approximately $26,315 per corporation (of the 38 corporations), and incorporates a discount from comparable cases to account for the fact that some of the corporations in this case were inactive or were mere holding companies.

[51] The Commission submits that we also ought to consider the financial benefit Valentine received from his misconduct in determining the appropriate administrative penalty. The Commission tendered evidence, by way of example, of dividends paid to Valentine in relation to one of the 38 corporations of $51,750 and $86,250 in 2019 and 2020, respectively.

[52] Valentine submits that a $1,000,000 administrative penalty for his breach of the D&O Ban is too severe, punitive and outside the range of administrative penalties imposed in other cases. Valentine submits that caselaw suggests the appropriate range of administrative penalties for breach of the D&O Ban is $110,000 to $200,000. Of particular relevance, in Valentine's submission, are the *Alexander (Re)*[10] and *Cadman (Re)*[11] decisions:

a. In *Alexander*, the respondent breached a prior order of the British Columbia Securities Commission (**BCSC**) by, among other things, becoming a director and officer of seven issuers while prohibited from doing so by order of the BCSC. The BCSC found that Alexander's breaches were deliberate, and he engaged in dishonest conduct. The BCSC imposed an administrative penalty of $200,000 and permanent market participation bans.

b. In *Cadman*, the respondents breached a settlement agreement with the Alberta Securities Commission (**ASC**) where they agreed to refrain from acting as directors or officers of any issuers for two years. While the respondents formally resigned as directors and officers of 20 companies, they continued to function as directors and officers of these companies and were raising new capital from investors. The respondents also misled ASC staff when asked about their roles in their companies. The ASC ordered an administrative penalty of $110,000 for each of the respondents and five- and ten-year market participation bans.

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7 *Pro-Financial Asset Management (Re)*, 2018 ONSEC 18 at para 84

8 *Rowan v Ontario (Securities Commission),* 2012 ONCA 208 (***Rowan***) at para 49

9 *Jardine (Re)*, 2016 BCSECCOM 82 at para 38; *Dunn (Re)*, 2023 BCSECCOM 251 at para 59, leave to appeal to BCCA refused, 2023 BCCA 451; *Malone (Re)*, 2016 BCSECCOM 334 at para 25; *Alexander (Re)*, 2007 BCSECCOM 773 at para 55, aff'd, 2013 BCCA 111; *Spaetgens (Re)*, 2017 ABASC 38, var'd, 2018 ABCA 410; *Cadman (Re)*, 2015 ABASC 836

10 2007 BCSECCOM 773 (***Alexander***)

11 2015 ABASC 836 (***Cadman***)

[53] Valentine submits that these decisions set the upper limit for cases involving breaches of a D&O Ban, and the conduct at issue in both cases was far more serious than Valentine's.

[54] Valentine submits that in determining the appropriate administrative penalty for the breach of the D&O Ban, the following factors are also relevant:

a. Valentine openly admitted that he was a director and/or officer of the corporations at issue in his interviews with OSC staff;

b. Valentine did not attempt to conceal his roles in the various corporations;

c. aside from the fact of the D&O Ban, the activities engaged in by Valentine were legal business activities (*i.e.,* there was no allegation that any of the activities, in and of themselves, breached any provision of the *Act*);

d. the corporations were all private and were not reporting issuers; and

e. no investors or members of the public were harmed.

[55] For these reasons, Valentine submits that the appropriate administrative penalty for breach of the D&O Ban is $200,000.

[56] The factors and authorities submitted by Valentine persuade us that the Commission's proposed penalty of $1,000,000 for the breach of the D&O Ban is excessive. We are not persuaded that the Commission's "per corporation" calculation is of much assistance in reaching a reasoned conclusion. While no prior case shares the features of this proceeding, there is no case cited by either party which approaches the total sum proposed by the Commission.

[57] On the other hand, there is no case in which a breach of a director and officer ban has persisted for so long, in respect of so many companies, without any exculpatory explanation from the respondent. Valentine's decision to decline to testify (which, we emphasize, is fully within his rights) has left the panel with limited facts.

[58] Valentine breached the 2004 Order (settled with the assistance of counsel) from the moment it was issued, by failing to resign from his existing positions – the subject of a separate and explicit paragraph in the 2004 Order. He proceeded over the following 19 years, again in clear breach of the 2004 Order, to become a director and/or officer of 36 more Ontario corporations. As found in the Merits Decision, over a dozen of these corporations had substantial banking activity. Only on the eve of the merits hearing in this proceeding did Valentine resign his then-current director and/or officerships. This occurred after all the interlocutory proceedings leading to the merits hearing, during which Valentine was represented by counsel.

[59] In these circumstances, it is fair to call the breach of the D&O Ban by Valentine a flagrant one. It was persistent and open: Valentine is correct to submit that he did not attempt to conceal it. For whatever reason, Valentine determined that he would not be constrained by the D&O Ban. Such conduct, as we have found above, is very serious and should attract a serious sanction.

[60] We note that Valentine did attempt to adduce evidence of his understanding of the D&O Ban indirectly through the Commission's investigator. However, we rejected that attempt for the reasons explained in the Merits Decision.[12]

[61] Just as we have determined that the Commission's proposed administrative penalty for breach of the D&O Ban of $1,000,000 is too high, we conclude that Valentine's proposed administrative penalty of $200,000 is too low.

[62] There is an element of disregard for the rule of law which makes breaches of a Tribunal order particularly serious. In this case the breach was recurrent, persisted over a long period, and there is no mitigating evidence. Valentine had substantial experience in capital markets and was a former registrant, which are aggravating factors. The flagrant nature of the breach calls for an administrative penalty that achieves sufficient specific deterrence of Valentine, and general deterrence of any like-minded individuals who may be weighing a breach of a Tribunal order.

[63] We conclude that an administrative penalty in the amount of $500,000 achieves these goals and shall be ordered to be paid by Valentine in respect of his breach of the D&O Ban.

3.4.3 Breaches of the Trading Ban

[64] The Commission submits that an administrative penalty of $1,000,000 for Valentine's Trading Ban breaches is also fair and proportionate to Valentine's conduct given the gains received by Valentine, directly or indirectly, through his corporations.

[12] Merits Decision at paras 36-37

[65] The Commission asserts that Valentine's lengthy history of securities regulatory violations warrants a significant administrative penalty in order to protect investors and foster fair and efficient capital markets, and that the proposed sanction represents less than 12% of the value of the benefit he received.

[66] The Commission relies on the following decisions in support of its request:

a. *Borealis International Inc (Re),*[13] where the Tribunal ordered the respondent to pay an administrative penalty of $300,000, which is over 700% of the approximately $42,000 in commissions he had received for his role in sales of securities in breach of a cease trade order.

b. *Da Silva (Re),*[14] where the Tribunal ordered Da Silva to pay an administrative penalty of $250,000, which is approximately 550% of the $45,280 in securities that Da Silva sold in breach of a cease trade order.

c. *Gold-Quest International (Re),*[15] where the Tribunal ordered a respondent to pay an administrative penalty of $300,000, representing approximately 85% of the benefit he received in connection to commissions from sales of securities in breach of a cease trade order.

d. *MOAG (Re)*,[16] where the Tribunal ordered administrative penalties of $200,000 and $400,000 respectively against two respondents who breached a cease trade order by selling debentures and raising money from investors which was not repaid.

e. *Stinson (Re)*,[17] a fraud case in which the Tribunal ordered the respondents, jointly and severally, to pay an administrative penalty of $600,000, despite having found no evidence of any direct benefit to the respondents.

[67] Like the administrative penalty requested for the breach of the D&O Ban, Valentine submits that a $1,000,000 administrative penalty for his breaches of the Trading Ban is excessive and not in the public interest.

[68] Valentine submits that the cases relied upon by the Commission to justify the $1,000,000 figure involved multiple breaches of the *Act* and conduct far more egregious than that of Valentine's, and in any event, ranged from $200,000 to $600,000.

[69] Valentine submits that in determining the appropriate administrative penalty for Valentine's involvement in the Flyp Sale, the following factors are also relevant:

a. Valentine made no attempt to conceal his involvement in the Flyp Sale, and was under the impression that the Trading Ban did not apply to the circumstances of the transaction;

b. Valentine received no compensation respecting the Flyp Sale;

c. Valentine became involved in the Flyp Sale at the request of his friend, MS, who lacked the requisite corporate expertise to understand the transaction; and

d. a dispute arose over the entitlement of the proceeds of the Flyp Sale which was ultimately settled.

[70] With respect to the Stock Secured Financings, Valentine submits that they required the Tribunal to consider a novel legal issue about whether the Stock Secured Financings met the definition of trade. Valentine also submits that aside from the fact of the Trading Ban, the activities engaged in by Valentine were legal business activities (*i.e.,* there was no allegation that any of the activities, in and of themselves, breached any provision of the *Act*).

[71] Valentine submits that he also aided the Commission in proving its allegations against him, as he admitted to his role in the Stock Secured Financings.

[72] For these reasons, Valentine submits that the appropriate administrative penalty for his breaches of the Trading Ban is $300,000.

[73] As with the administrative penalty for the breach of the D&O Ban, we find the Commission's proposed administrative penalty of $1,000,000 for breaches of the Trading Ban to be too high, and Valentine's proposed administrative penalty of $300,000 to be too low.

[74] We do not agree with Valentine's submission that the Stock Secured Financings presented a novel issue about the definition of a "trade". The structures of the trades involved a number of parties, but when broken out into their constituent

[13] 2011 ONSEC 2 at para 91
[14] 2012 ONSEC 32 at paras 1 and 17
[15] 2010 ONSEC 30 at para 110
[16] 2020 ONSEC 29 at paras 21 and 24
[17] 2023 ONCMT 50 at paras 11 and 48

parts, each transaction involved at least one clear "trade".[18] The trade was an integral aspect of the Stock Secured Financings as they operated in practice, and as Valentine understood them to operate.[19] Moreover, it was the profit on those trades which formed the basis for Valentine's compensation.[20]

[75] As was the case for the D&O Ban, Valentine elected not to testify and we have no evidence of his understanding of the Trading Ban in respect of the Flyp Sale or otherwise. His attempt to adduce such evidence indirectly was rejected in the Merits Decision.[21]

[76] Valentine received very large amounts of money from his involvement in the Stock Secured Financings, which form the basis of a disgorgement order, as discussed below. Those amounts, in excess of $15,000,000, represent the benefit available to Valentine by breaching the Trading Ban.

[77] We bear in mind the Ontario Court of Appeal's observation that substantial administrative penalties are necessary to remove economic incentives for non-compliance.[22] While we are not persuaded that the percentage-of-profit analysis of cases presented by the Commission is of much assistance, we agree with the directional thrust of those cases that administrative penalties must present a compelling downside to offset the potential upside of a breach.

[78] Valentine is correct that the cases relied upon by the Commission involve conduct that in some respects is more serious than Valentine's, on occasion involving fraud. However, we have determined that Valentine's conduct is very serious, involving as it does (in respect of the Stock Secured Financings) several transactions over a number of years giving rise to very large payments for Valentine's benefit.

[79] Weighing the sanctioning factors we have already discussed, and particularly in light of the large sums involved and the need for both specific and general deterrence, we conclude that an administrative penalty in the amount of $500,000 shall be ordered to be paid by Valentine in respect of his breaches of the Trading Ban.

3.5 Disgorgement

[80] The Commission requests that Valentine be ordered to disgorge the $3,257,639.75 and US$10,732,503 he was found in the Merits Decision to have received in connection with his breaches of the Trading Ban. Such an order is authorized by paragraph 10 of s.127(1) of the *Act*, which refers to disgorgement of "any amounts obtained" as a result of non-compliance with Ontario securities law.

[81] Valentine accepts that the requested disgorgement order is appropriate.

[82] In this case, it is clear to us that the amounts requested by the Commission were obtained by Valentine as a result of his breaches of the Trading Ban. We consider it to be in the public interest for Valentine to disgorge $3,257,639.75 and US$10,732,503.

3.6 Costs

[83] Section 127.1 of the *Act* authorizes the Tribunal to order a respondent to pay the costs of an investigation and of the proceeding that follows it, if the respondent has been found to have contravened Ontario securities law. A costs order is designed to reduce the burden on market participants to pay for investigations and enforcement proceedings.

[84] The Commission seeks costs of $343,569.30 against Valentine.

[85] The Commission provided an affidavit outlining costs and disbursements, which shows the costs of the investigation, pre-hearing activities and the merits hearing. The affidavit lists members of the Commission (including outside counsel) who participated in each phase, the hourly rates for their positions (which have been previously approved by the Tribunal), and the time spent by them on each activity. The costs incurred, according to the Commission's affidavit, calculated in this manner added up to $640,723.75, consisting of fees of $416,836.25 and disbursements of $223,887.50.

[86] The Commission noted that this initial figure had already been reduced from its actual costs, by excluding a number of items, including:

a. the time spent by employees in the Case Assessment, E-Discovery & Analytics, and Quasi-Criminal Serious Offences Teams;

b. the time spent by employees who recorded 35 or fewer hours on the matter; and

[18] Merits Decision at para 109
[19] Merits Decision at para 110
[20] Merits Decision at para 115
[21] Merits Decision at para 51
[22] *Rowan* at para 49

c. the time spent by Case Leads and Assistant Investigators.

[87] The costs sought, the Commission submits, represent a further discount of over 46% compared to the costs incurred. This reduction is to account for, among other things:

a. time spent by Commission employees to bring external counsel, who were retained six weeks before the start of the merits hearing, up to speed on the file;

b. time spent by external counsel to get up to speed;

c. the Commission's unsuccessful adjournment motion in September 2023;

d. reducing the hourly rate charged by external counsel to the lower government rate; and

e. ending the time claimed for all litigators and investigators at March 20, 2024 (the date of the Merits Reasons).

[88] Although a respondent found to have contravened Ontario securities law should expect to pay costs, a large costs award can reasonably be viewed as punitive. The potential for such an award may adversely affect a respondent's willingness, and ability, to pursue a full defence.[23] Further, as is the case with an administrative penalty, determining the amount of a costs award is not a science. The Tribunal should apply a balanced approach that takes into account various factors.[24]

[89] Previous cases have noted a number of factors which are relevant in determining whether costs being sought are reasonable. Those factors include the seriousness of the misconduct, the complexity of the allegations and the length of the hearing, and the degree of success that the Commission has in establishing its allegations.[25]

[90] The Commission submits that the requested costs order reflects the seriousness and complexity of the breaches in this matter, Valentine's unnecessary complication of the merits hearing by opposing the Commission's reasonable adjournment request, and the Commission's success at proving its allegations against Valentine. Furthermore, as noted above, the Commission stresses that the costs sought are significantly discounted from the costs actually incurred.

[91] Valentine takes issue with the amount of costs requested, and submits a costs award of $175,000 is appropriate given his conduct in the hearing, including several admissions he made at the merits hearing, the Commission's conduct, and a comparison to the costs ordered in a recent Tribunal fraud decision (*Feng*).

[92] Valentine submits he did nothing to unnecessarily lengthen the duration of the proceeding or obstruct the Commission's investigation but, rather, aided the Commission in proving its allegations through his responses to compelled examinations which were tendered as evidence during the merits hearing. Further, Valentine submits that he only contested one novel legal issue during the merits hearing: whether the Stock Secured Financings met the definition of a "trade".

[93] With respect to the Commission's conduct during the merits hearing, Valentine highlights the following as justifications for lowering the requested costs award:

a. the Commission served on Valentine, in the period leading up to the hearing, a hearing brief containing thousands of documents, but ultimately only 337 documents were entered into the record at the merits hearing; and

b. the Commission's conduct resulted in an unnecessary adjournment motion which the Commission lost and now seeks to use to justify increased costs against Valentine.

[94] Valentine further submits that the merits hearing took place over fewer than four days in total (spread out over seven hearing days to accommodate scheduling challenges). By comparison, in *Feng*, which was heard by the Tribunal over six days, the Tribunal ordered the respondent to pay approximately $200,000 in costs. Valentine submits that the costs sought in this case, which are 1.5 times greater than that awarded in *Feng*, would be punitive and outside the range of reasonableness.

[95] We find the approach taken by the Commission in calculating its costs to be proper and the only issue is whether any reduction to the amount sought is appropriate.

[96] The Commission was faced with the unexpected departure of its lead counsel only weeks before the scheduled beginning of the merits hearing. On September 6, 2023, a differently constituted panel denied the Commission's request for an

[23] *Feng (Re)*, 2023 ONCMT 12 (***Feng***) at para 96
[24] *Solar Income Fund Inc (Re)*, 2023 ONCMT 3 at para 166
[25] *Paramount Equity Financial Corporation (Re)*, 2023 ONCMT 20 at para 132

adjournment on this basis, for reasons issued on October 5, 2023.[26] The merits hearing began as scheduled on September 29, 2023, and all evidence was concluded by October 12, after six days of hearing which included some partial days to accommodate witness availability.

[97] A change in counsel is always disruptive, always causes extra effort and cost, and it is always difficult to isolate and extract the cost of the disruption. One can debate its degree, but here, occurring as it did so close to the start of the merits hearing, it was naturally substantial.

[98] The Commission has attempted to reflect the additional cost of the change of counsel. In its costs sought, it has reduced the time spent by internal counsel, and by the new external junior counsel, during what it termed "the litigation phase", by 50%, and has attempted to exclude all time related to the adjournment motion.

[99] We are not persuaded that these reductions, though substantial, adequately reflect the change in counsel. For example, the time of the new external senior counsel was not reduced for time learning the new file, but only for the adjournment motion. The Commission's decision on reductions are not unreasonable, but are also not amenable to any precise verification.

[100] Valentine bore no responsibility for the change in counsel. It is clear that the change caused disruption and increased the Commission's costs in a manner that cannot be quantified with precision. The change also increased the respondent's costs: while the Commission's time on the adjournment motion can be excluded from its claim, that leaves untouched the additional costs Valentine incurred in his response to it. In these circumstances we conclude a modest reduction in the costs sought is appropriate, to reflect the unquantifiable aspects of the late change in counsel.

[101] Another element raised by Valentine deserves comment: the Commission's delivery of a hearing brief with nearly 3,000 documents and an affidavit incorporating approximately 1,500 of them. As Valentine submits, only a fraction of these documents were ultimately entered into evidence.

[102] The Commission responds that, unaware that Valentine would admit two of the three alleged breaches in his opening at the merits hearing, it was obliged to anticipate that it might need the documents to prove all three allegations.

[103] In fact, however, that is essentially what occurred at the merits hearing. As commented upon in the Merits Decision,[27] Valentine purported to admit the allegations, but not the facts which underpinned the allegations. As a result, the Commission was required to introduce all the necessary evidence to establish all three of the breaches, which included substantial documentary evidence. Even so, that evidence engaged only a fraction of the documents in the hearing brief.

[104] We are persuaded that the Commission did not "cull" adequately the documents it would rely on, prior to delivery of the hearing brief. It may be that this was a result of the late change in counsel, and is an element of the unquantifiable disruption we note above.

[105] Advances in technology make it increasingly easy to create, collect, aggregate and deliver massive numbers of electronic documents. To achieve just, expeditious and cost-effective proceedings, the parties bear a responsibility to apply reasoned judgement in the preparation of hearing briefs and documentary evidence. They should exclude documents which they conclude will not be necessary at the hearing, on any reasonable scenario. Obviously, counsel will err on the side of inclusion, to be prepared for the unexpected twists and turns in a hearing. That is expected and prudent. However, prudence is not reflected by uncritical inclusion of every available electronic document.

[106] We do not conclude that this is what the Commission did in this case. We are persuaded, though, that too light a touch was brought to whatever filtering was done of the disclosure documents in the preparation of the hearing brief and affidavit. The gap between the number of documents in the brief and those ultimately used in the hearing, to establish all three breaches, is too wide.

[107] Over-inclusion of documents also puts a respondent to the added expense of unnecessary review. It can also lengthen proceedings. In this case, the better part of the first day of the merits hearing was consumed with discussion of how to deal with the voluminous materials referenced in the investigator's affidavit.

[108] We conclude that a modest reduction should be made in the costs sought by the Commission, to reflect the unquantifiable effects of over-inclusion of documents in the hearing brief.

[109] Valentine seeks credit for having done "nothing to unnecessarily lengthen the duration of the proceeding. To the contrary his conduct shortened the merits hearing." We view it as a given that parties should do nothing to unnecessarily lengthen a proceeding.

[26] *Valentine (Re)*, 2023 ONCMT 33
[27] Merits Decision at paras 29-30 and 40

[110] As noted, Valentine did purport to admit two of the three allegations against him. In the ordinary case, a respondent's admission of allegations should be recognized as being likely to make a hearing more efficient. In this case, however, we find that Valentine's admissions did not have that effect. They were only made at the opening of the merits hearing after all hearing preparation was complete. They were qualified in a manner which required the Commission to lead full evidence to establish all the breaches. The admissions, and Valentine's conduct, did nothing to materially reduce, or extend, the merits hearing duration, and they have no weight in our assessment of costs.

[111] Valentine cites *Feng* as a recent Tribunal authority, where a hearing that took six days gave rise to a costs order of approximately $207,000. In the present case, he submits, the time in evidence was the equivalent of four days. By comparison to *Feng,* a costs order in the amount sought by the Commission would be punitive and outside the range of reasonableness.

[112] We do not agree. While a degree of comparability of costs for Tribunal proceedings is desirable, each case depends on the circumstances it presents. It is difficult to compare proceedings based on hearing days (or any other single factor) alone.

[113] This proceeding was originally scheduled for 15 hearing days. The Commission submitted it should take no more than 10, and that proved to be correct. Regardless, the parties anticipated a lengthy hearing. Both parties' counsel deserve credit for conducting their cases in a manner that reduced the hearing time to less than their estimates.

[114] In *Feng,* the Commission sought costs of approximately $265,000, reduced from costs incurred of approximately $337,000. The Tribunal granted costs of approximately $207,000, which it characterized as a total 40% discount from the costs incurred.

[115] Behind those figures, though, are the elements of how complex the allegations, investigation and hearing may have been in the circumstances unique to that case.

[116] In this proceeding, the D&O Ban implicated 38 corporations over a 19-year period; the Stock Secured Financings involved numerous offshore transactions, communications with foreign regulatory authorities, and multiple parties. It is not difficult to infer that the investigation was complicated and time consuming. We have no basis on which to question the propriety of the Commission's time spent on this proceeding.

[117] We conclude that the Commission's costs are fairly calculated and reasonable but should be subject to modest reductions to reflect:

a. the unquantifiable disruption occasioned by the late change in counsel; and

b. the insufficient discipline in culling documents included in the hearing brief.

[118] As a result, we order Valentine to pay the Commission's costs in the amount of $300,000.

4. CONCLUSION

[119] For the above reasons, we order that:

a. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Valentine shall cease permanently;

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

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

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

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

f. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Valentine is permanently prohibited from becoming or acting as a registrant, including as an investment fund manager, or as a promoter;

g. pursuant to paragraph 9 of subsection 127(1) of the *Act*, Valentine shall pay:

i. an administrative penalty of $500,000 for his breach of the D&O Ban; and

ii. an administrative penalty of $500,000 for his breaches of the Trading Ban;

h. pursuant to paragraph 10 of subsection 127(1) of the *Act*, Valentine shall disgorge to the Commission $3,257,639.75 and US$10,732,503; and

i. pursuant to section 127.1 of the *Act*, Valentine shall pay to the Commission $300,000 for the costs of the investigation and hearing.

Dated at Toronto this 30th day of September, 2024

“Cathy Singer”

“Geoffrey D. Creighton”

“Dale R. Ponder”

B. Ontario Securities Commission

B.2
Orders

B.2.1 Copperleaf Technologies 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 legislation.

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 414

September 23, 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
COPPERLEAF TECHNOLOGIES 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, Manitoba, New Brunswick, Newfoundland and

Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec, Saskatchewan and Yukon, 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.

"Victoria Steeves"
Acting Chief, Legal Services, Corporate Finance
British Columbia Securities Commission

OSC File #: 2024/0515

B.2.2 Japan Securities Clearing Corporation – s. 147

Headnote

Application under section 147 of the Securities Act (Ontario) (Act) for an order exempting Japan Securities Clearing Corporation from the requirement in subsection 21.2(0.1) of the Act to be recognized as a clearing agency.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21.2(0.1), 147.

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

AND

IN THE MATTER OF
JAPAN SECURITIES CLEARING CORPORATION

ORDER
(Section 147 of the OSA)

WHEREAS the Ontario Securities Commission (**Commission**) has received an application (**Application**) from the Japan Securities Clearing Corporation (**JSCC**) pursuant to section 147 of the OSA requesting an order exempting JSCC from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the OSA in order to provide its central counterparty (**CCP**) clearing service for interest rate swaps (**IRS**) to Ontario-resident entities (**Order**);

AND WHEREAS on September 29, 2023, the Commission issued an order that exempted JSCC on an interim basis (**Interim Order**) from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the OSA, until the earlier of (i) September 28, 2024, and (ii) the effective date of a subsequent order exempting JSCC from the requirement to be recognized as a clearing agency under section 147 of the OSA;

AND WHEREAS the Interim Order will be replaced by this Order;

AND WHEREAS JSCC has represented to the Commission that:

1.1 JSCC is a joint-stock company formed under the *Companies Act* of Japan on July 1, 2002, and is a majority-owned subsidiary of the Japan Exchange Group, Inc., a publicly traded company listed on the Tokyo Stock Exchange, Inc.

1.2 JSCC is licensed as a CCP to perform clearing services ("Financial Instruments Obligation Assumption Services"), including IRS clearing services, under the *Financial Instruments and Exchange Act* (Japan) (**FIEA**). JSCC is obligated under the FIEA to conduct its IRS clearing business in accordance with its IRS Business Rules, which are subject to approval by the Prime Minister of Japan. The IRS Business Rules set out the rights and obligations in relation to the IRS clearing business, including the risk-management framework, to ensure the stable performance of JSCC's clearing operations. The FIEA and Cabinet Office Order on the Regulation of Over-the-Counter Derivatives Transactions requires certain types of IRS and credit default swaps denominated in Japanese yen to be cleared in a licensed clearinghouse. In addition, these laws and regulations require certain over-the-counter (**OTC**) derivative contracts to be reported to (i) trade repositories licensed in Japan or (ii) those incorporated in a foreign jurisdiction and designated by the Prime Minister.

1.3 JSCC is regulated and supervised by the Japanese Financial Services Agency (**JFSA**) and is subject to the oversight of the Bank of Japan in respect of its IRS clearing activities. Pursuant to the FIEA, changes to JSCC's articles of incorporation, reductions to its stated capital and the acquisition by any person of 20% or more of the outstanding shares of JSCC are subject to approval by the JFSA. The FIEA also imposes on JSCC a duty of confidentiality and a prohibition on unfairly differential treatment of its clearing participants. The JFSA has the power under the FIEA to take certain actions in respect of JSCC as a regulated CCP, including to conduct inspections, to require reporting, to make business improvement orders and to rescind the CCP's license in certain circumstances. JSCC is also subject to oversight by the Bank of Japan of financial market infrastructures, as provided in the *Bank of Japan Act*.

1.4 JSCC is of the opinion that it fully observes the international standards applicable to financial market infrastructures described in the April 2012 report named *Principles for financial market infrastructures* (**PFMIs**) as discussed in its PFMI Disclosure Report dated as of March 31, 2024.

1.5 JSCC is recognized by the European Securities and Markets Authority as a Third Country CCP under the European Market Infrastructure Regulation and is subject to an order issued by the U.S. Commodity Futures Trading Commission that exempts JSCC from the requirement to register as a Derivatives Clearing Organization under the U.S. *Commodity Exchange Act*. In Australia, JSCC has received designation as a "prescribed facility" under the Corporations Amendment (Central Clearing and Single Sided Reporting) Regulation 2015. JSCC has obtained from the Hong Kong Securities and Futures Commission authorization to provide Automated Trading Services, as well as designation as a central counterparty, which can be used for the observance of mandatory clearing obligations under the Securities and Futures Ordinance. JSCC has obtained recognition as a Foreign Central Counterparty under the Financial Market Infrastructure Act from the Swiss Financial Market Supervisory Authority to offer IRS Clearing Services to those trading entities. JSCC has obtained temporary recognition from the Bank of England for the provision of all its clearing services in the U.K. as a Third Country CCP under the *Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018*, to provide services to clearing participants and trading facilities established in the U.K.

1.6 Entities that satisfy the participant criteria set forth in JSCC's Interest Rate Swap Clearing Business Rules (**IRS Business Rules**) are eligible to apply for qualification as clearing participants in JSCC's IRS clearing business (**Clearing Participants**). Each Clearing Participant must enter into a Clearing Participant Agreement with JSCC, and the IRS Business Rules are binding on Clearing Participants by virtue of the Clearing Participant Agreement.

1.7 JSCC has a single clearing model for IRS and a single category of IRS Clearing Participant. JSCC's participation criteria cover financial integrity, the regulated status of an applicant, and the appropriateness of the applicant's management structure and business execution structure to meet and continue to meet the standards set out by JSCC. The IRS Business Rules impose additional obligations on a Clearing Participant that engages in clearing on behalf of its customers.

1.8 JSCC anticipates that banks, pension plans, asset managers, insurance companies and other entities that have a head office or principal place of business in Ontario and that are "local customers" as defined in National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions* (**NI 94-102**) may be interested in using JSCC's customer clearing services in respect of certain OTC IRS derivatives (each an **Ontario Customer**). JSCC also anticipates that entities that have a head office or principal place of business in Ontario may be interested in becoming Clearing Participants (each, an **Ontario Clearing Participant**) in JSCC's IRS clearing service.

1.9 Each Clearing Participant is required to provide JSCC with, and maintain on a daily basis for so long as it is a Clearing Participant, eligible collateral with a collateral value sufficient to satisfy its margin and clearing fund requirements as calculated by JSCC in accordance with the IRS Business Rules.

1.10 JSCC will only offer Ontario Customers an individual segregated account structure for client clearing. JSCC segregates each Clearing Participant's proprietary positions and margin from the positions and margin of each customer of the Clearing Participant. The positions and margin of each Ontario Customer will be segregated in individual customer accounts with JSCC at all times, regardless of whether or not the Ontario Customer is an affiliate of the Clearing Participant. A Clearing Participant must deposit the full amount of customer margin with JSCC without delay when it receives margin from a customer unless otherwise agreed by the customer. The IRS Business Rules do not allow for the netting of positions recorded in different customer accounts. JSCC will not permit any Ontario Customer to clear through any "indirect intermediary" as defined in NI 94-102 or permit any Ontario Customer to on-board any indirect client that would clear through the Ontario Customer.

1.11 The IRS Business Rules (including in particular the default procedures contained within them) govern the processes that apply to Clearing Participants in the case of a Clearing Participant default. Clearing Participants remain responsible for the credit risk of their customers. JSCC has established a financial safeguards system to provide optimal risk management protections including the establishment of a segregated financial safeguard waterfall for cleared IRS that is designed to ensure that JSCC has sufficient resources to cover defaulting Clearing Participant losses in a wide range of potential stress scenarios including the extreme scenario where the two largest Clearing Participants (including any affiliated entities) default at the same time.

1.12 Upon the default of a Clearing Participant, JSCC will take action to contain losses by halting clearing of new transactions from the defaulter and liquidating the defaulter's positions. JSCC's methods for disposing of positions vary according to the nature of the product cleared. For JSCC's IRS clearing business, an auction involving non-defaulting Clearing Participants is used. In addition, hedge transactions may be promptly executed for the defaulter's portfolio to minimize the risk of losses prior to the disposal of the defaulter's positions. For the IRS clearing business, hedge transactions are executed based on the advice of the IRS Default Management Committee.

1.13 A Clearing Participant must successfully complete simulated default tests to demonstrate they have the appropriate expertise and operational processes in place prior to beginning clearing operations. Once live, all Clearing Participants are required to participate in fire drills regularly to confirm their operational readiness to manage a Clearing Participant default.

1.14 JSCC currently offers portfolio margining (also known as cross-margining) of (a) cleared IRS, (b) certain Japanese Government Bond futures contracts (**JGB Futures**), and (c) certain Japanese interest rate futures contracts (together with JGB Futures, the **Cross-Margined Instruments**) in each case, in customer accounts in accordance with the IRS Business Rules (the **Cross-Margin Service**). JSCC proposes to make its Cross-Margin Service available to Ontario Clearing Participants and Ontario Customers that use JSCC's IRS clearing services and the applicable clearing services for Cross-Margined Instruments.

1.15 By combining positions in both IRS and Cross-Margined Instruments into a single portfolio for margin purposes, JSCC's portfolio-margining service allows the overall risk of that portfolio to be determined. Because IRS and Cross-Margined Instruments experience pricing changes that are correlated with variations in Japanese yen interest rates, which may result in offsetting changes in the aggregate potential future exposure of a portfolio of positions, portfolio-margining can result in a margin requirement that is more proportionate to the aggregate risk of the portfolio. Thus, the benefit of JSCC's portfolio-margining of IRS and Cross-Margined Instruments for Ontario Customers and Ontario Clearing Participants, through the margin savings on the same basis as is available to entities outside Ontario, may be significant.

1.16 Pursuant to the Interim Order, the Commission exempted JSCC on an interim basis from the requirement to be recognized as a clearing agency under section 21.2 of the Act with the condition that JSCC's activities in Ontario would be limited to providing customer clearing services for IRS transactions for and on behalf of Ontario Customers clearing IRS transactions through a Clearing Participant that is resident outside of Ontario and is a "clearing intermediary" that is a "direct intermediary" as defined in NI 94-102. JSCC applied for the Interim Order to permit a bank listed in Schedule I of the *Bank Act* (Canada) (Schedule I Bank) to clear IRS transactions through a Clearing Participant resident outside of Ontario.

1.17 JSCC would provide its services to Ontario Customers and Ontario Clearing Participants without establishing an office or having a physical presence or employees in Ontario or elsewhere in Canada.

1.18 JSCC submits that it does not pose a significant risk to the Ontario capital markets and is subject to an appropriate regulatory and oversight regime in a foreign jurisdiction.

AND WHEREAS JSCC has agreed to the terms and conditions as set out in Schedule "A" to this order;

AND WHEREAS JSCC is required to comply with National Instrument 24-102 *Clearing Agency Requirements;*

AND WHEREAS based on the Application and the representations that JSCC has made to the Commission, in the Commission's opinion the granting of the Order to exempt JSCC from the requirement to be recognized as a clearing agency would not be prejudicial to the public interest;

AND WHEREAS JSCC has acknowledged to the Commission that the scope of and the terms and conditions imposed by the Commission attached hereto as Schedule "A" to this Order, or the determination whether it is appropriate that JSCC continue to be exempted from the requirement to be recognized as a clearing agency, may change as a result of the Commission's monitoring of developments in international and domestic capital markets, JSCC's activities, or as a result of any changes to the laws in Ontario affecting trading in or clearing and settlement of derivatives or securities;

IT IS HEREBY ORDERED by the Commission that pursuant to section 147 of the OSA, JSCC is exempt from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the OSA;

PROVIDED THAT JSCC complies with the terms and conditions attached hereto as Schedule "A".

DATED this 23th day of September, 2024.

"Aaron Ferguson"
Manager, Trading and Markets
Ontario Securities Commission

SCHEDULE "A"

Terms and Conditions

Unless the context requires otherwise, the terms used in this Schedule "A" have the meanings ascribed to them in Ontario securities law (including terms defined elsewhere in this order).

COMPLIANCE WITH ONTARIO LAW

1. JSCC must comply with Ontario securities law (as defined in the OSA).

2. JSCC's IRS clearing services must comply with National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions* (**NI 94-102**), except where and to the extent that JSCC has obtained an order exempting JSCC from the requirements of NI 94-102 and complies with the terms of such order.

SCOPE OF PERMITTED CLEARING SERVICES IN ONTARIO

3. JSCC's activities in Ontario will be limited to providing CCP clearing services for IRS transactions for and on behalf of Ontario Clearing Participants and Ontario Customers (**Permitted Clearing Services**).

4. Prior to first admitting a Clearing Participant that is an Ontario-resident entity, JSCC shall obtain a legal opinion that confirms the closeout netting and collateral enforcement provisions of the IRS Business Rules are effective in respect of such proposed Ontario-resident Clearing Participant under applicable laws of Ontario and the federal laws of Canada applicable therein.

REGULATION OF JSCC

5. JSCC must maintain its license as a CCP to perform clearing services in Japan ("Financial Instruments Obligation Assumption Services"), including IRS clearing services under the FIEA. JSCC is regulated and supervised by the JFSA and is subject to the oversight of the Bank of Japan in respect of its IRS clearing activities and will continue to be subject to the regulatory oversight of the JFSA and the Bank of Japan or any successors.

6. JSCC must continue to comply with its ongoing regulatory requirements as an entity licensed to perform IRS clearing services under the FIEA or any comparable successor legislation, and with the ongoing regulatory requirements of the JFSA, as applicable. For so long as JSCC maintains its existing licenses, authorizations, and recognition or exemption orders in certain jurisdictions outside Japan as described in representation 1.5 above, JSCC must continue to comply with its ongoing regulatory requirements as a CCP in such jurisdictions pursuant to such licenses, authorizations, and recognition or exemption orders.

GOVERNANCE

7. JSCC must promote within JSCC a governance structure that minimizes the potential for any conflict of interest between JSCC and its shareholders that could adversely affect the Permitted Clearing Services or the effectiveness of JSCC's risk management policies, controls and standards.

REPORTING REQUIREMENTS

Reporting with JFSA

8. JSCC must promptly provide staff of the Commission with the following information, to the extent that it is required to provide or submit such information to JFSA or any successor:

   (a) details of any material legal proceeding instituted against JSCC;

   (b) notification that JSCC has failed to comply with an undisputed obligation to pay money or deliver property to an Ontario Clearing Participant or an Ontario Customer for a period of thirty days after receiving notice from the applicable Clearing Participant of JSCC's past due obligation;

   (c) notification that JSCC has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate JSCC or has a proceeding for any such petition instituted against it;

   (d) notification that JSCC has initiated its recovery plan;

   (e) the appointment of a receiver or the making of any voluntary arrangement with creditors;

   (f) the entering of JSCC into any resolution regime or the placing of JSCC into resolution by a resolution authority;

(g) material changes to the IRS Business Rules where such changes would impact the Permitted Clearing Services used by Ontario Clearing Participants or Ontario Customers;

(h) new services or clearing of new types of products in the Permitted Clearing Services to be offered to Ontario Clearing Participants or Ontario Customers or services or types of products that will no longer be available to Ontario Clearing Participants or Ontario Customers; and

(i) any new category of membership in respect of the Permitted Clearing Services if JSCC expects that category of membership would be available to Ontario Clearing Participants or Ontario Customers;

Financial Statements

9. JSCC must promptly provide staff of the Commission with the following information:

(a) English translations of interim financial statements, if available; and

(b) English translations of annual audited financial statements, within 30 days of providing the Japanese version of any such statements to the JFSA.

Prompt Notice

10. JSCC must promptly notify staff of the Commission of any of the following:

(a) any material change to its business or operations;

(b) any material change or proposed material change in JSCC's status as an entity licensed to perform "Financial Instruments Obligation Assumption Services" under the FIEA or in its regulation and supervision by JFSA or any successor;

(c) any material problems with the clearing and settlement of transactions that could materially affect the safety and soundness of JSCC;

(d) the admission of any new Ontario Clearing Participant or Ontario Customer;

(e) any event of default by, or removal from Permitted Clearing Services of, an Ontario Clearing Participant or an Ontario Customer;

(f) any material system failure of a Permitted Clearing Service used by an Ontario Clearing Participant or an Ontario Customer, including cybersecurity breaches; and

(g) any default by a Clearing Participant clearing Cross-Margined Instruments on behalf of an Ontario Clearing Participant that uses the Cross-Margin Service.

Quarterly Reporting

11. JSCC must maintain and submit the following information to the Commission in a manner and form acceptable to the Commission on a quarterly basis within 30 days of the end of each calendar quarter, and at any time promptly upon the request of staff of the Commission:

(a) current lists of all Ontario Clearing Participants and Ontario Customers and the legal entity identifier (**LEI**), if any, of each such Ontario Clearing Participant and Ontario Customer;

(b) a list of all Ontario Clearing Participants and Ontario Customers against whom disciplinary or legal action has been taken in the quarter by JSCC with respect to activities at JSCC, or to the best of JSCC's knowledge, by JFSA or any other authority in Japan that has or may have jurisdiction with respect to the relevant Ontario Clearing Participant or Ontario Customer's clearing activities at JSCC, provided that the Commission will maintain the confidentiality of the identity of any such Ontario Clearing Participant and Ontario Customer, unless (i) required by a court of competent jurisdiction, law, regulation or memorandum of understanding with a regulatory authority to release such identity, (ii) disclosure is permitted by or consistent with the purposes of the OSA, or (iii) such identity is publicly available;

(c) a list of all investigations by JSCC in the quarter relating to Ontario Clearing Participants and Ontario Customers, provided that the Commission will maintain the confidentiality of the identity of any such Ontario Clearing Participant and Ontario Customer, unless (i) required by a court of competent jurisdiction, law, regulation or memorandum of understanding with a regulatory authority to release such identity, (ii) disclosure is permitted by or consistent with the purposes of the OSA, or (iii) such identity is publicly available;

(d) quantitative information in respect of the Permitted Clearing Services used by the Ontario Clearing Participants and Ontario Customers broken down by each Clearing Participant (identified by LEI) that (i) is an Ontario Clearing Participant, or (ii) is not an Ontario Clearing Participant but provides the Permitted Clearing Services to an Ontario Customer, if applicable, including the following:

i. the end of quarter level, maximum and average daily open interest, number of transactions and notional value of transactions cleared during the quarter for each Ontario Clearing Participant and Ontario Customer, by product type;

ii. the percentage of end of quarter level and average daily open interest, number of transactions and the notional value cleared during the quarter for all Clearing Participants that represents the end of quarter and average daily open interest, number of transactions and the notional value of transactions cleared during the quarter for each Ontario Clearing Participant and Ontario Customer, by product type;

iii. the aggregate total margin amount required by JSCC on the last trading day during the quarter for each Ontario Clearing Participant and Ontario Customer; and

iv. the percentage of the total margin required by JSCC, on the last trading day of the quarter, for all Clearing Participants that represents the total margin required for each Ontario Clearing Participant and Ontario Customer;

(e) the IRS clearing fund contribution, for each Ontario Clearing Participant on the last trading day of the quarter, and its proportion to the total IRS clearing fund contributions;

(f) the percentage of IRS positions, in terms of notional value and number of transactions, held by each Ontario Clearing Participant that are cross-margined as of the last trading day of the quarter;

(g) the notional value and number of transactions of Cross-Margined Instruments positions that are cross-margined via JSCC's portfolio-margining service with the IRS positions maintained by each Ontario Clearing Participant as of the last trading day of the quarter; and

(h) a summary of risk management analysis related to the adequacy of the required margins and the IRS clearing fund requirement, including but not limited to stress testing and back testing results.

INFORMATION SHARING

12. JSCC must promptly 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 that would prevent the sharing of such information and subject to the application of solicitor-client privilege.

13. Unless otherwise prohibited under applicable law, JSCC must share information relating to regulatory and enforcement matters and otherwise cooperate with other recognized and exempt clearing agencies on such matters, as appropriate.

B.3
Reasons and Decisions

B.3.1 Power Financial Corporation and Power Corporation of Canada

Headnote

Process for Exemptive Relief Applications in Multiple Jurisdictions – Power Financial Corporation relieved from the obligation under Regulation 51-102 to file annual financial statements, interim financial reports, MD&A, AIFs, material change reports, BARs and executive compensation disclosure, on the condition that its parent Power Corporation of Canada comply with all of its continuous disclosure obligations, and other conditions – filer also given related relief from short form eligibility requirements and short form prospectus content requirements in Regulation 44-101 and Regulation 44-102.

Applicable Legislative Provisions

Regulation 51-102, Parts 4, 5, 6, 7 and 8.
Regulation 51-102, ss. 11.6, 12.1(1) and 12.2(1).
Regulation 52-109.
Regulation 44-101, ss. 2.2(d) and 2.2(e).
Regulation 44-102, ss. 2.2(1) and 2.2(3)(b)(i)(ii)(iii).
Regulation 44-101, s. 8.4.
Form 44-101F1, s. 11.1(1).
Form 44-101F1, s. 11.2.

[Original text in French]

SEDAR+ filing No: 06166273

September 10, 2024

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

AND

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

AND

IN THE MATTER OF
POWER FINANCIAL CORPORATION
(the Filer)

AND

POWER CORPORATION OF CANADA
(PCC)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be exempted from:

(a) the requirements contained in the Legislation (the **Continuous Disclosure Requirements**) to: (i) file with the securities regulatory authority in each of the jurisdictions (the **Securities Regulatory Authorities**) and send to its securityholders annual and interim financial statements under Part 4 of *Regulation 51-102 respecting Continuous Disclosure Obligations*, CQLR, c. V-1.1, r. 23 (**Regulation 51-102**); (ii) file with the Securities Regulatory Authorities and send to its securityholders annual and interim MD&A with respect to its annual and interim financial statements under Part 5 of Regulation 51-102; (iii) file with the Securities Regulatory Authorities an AIF under Part 6 of Regulation 51-102; (iv) issue and file news releases and file with the Securities Regulatory Authorities reports upon the occurrence of a material change under Part 7 of Regulation 51-102; (v) file with the Securities Regulatory Authorities a business acquisition report in respect of a significant acquisition under Part 8 of Regulation 51-102; (vi) disclose information relating to compensation under Section 11.6 of Regulation 51-102; (vii) file with the Securities Regulatory Authorities documents affecting the rights of securityholders under Subsection 12.1(1) of Regulation 51-102; and (viii) file with the Securities Regulatory Authorities material contracts under Subsection 12.2(1) of Regulation 51-102 (the **Continuous Disclosure Relief**);

(b) the requirement under *Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings*, CQLR, c. V-1.1, r. 27 (**Regulation 52-109**) to file annual certificates and interim certificates (the **Certification Requirements**) in respect of annual filings and interim filings and the other requirements of Regulation 52-109 respecting establishing and maintaining DC&P and ICFR (the **Certification Relief**);

(c) the short form prospectus qualification provisions in paragraphs 2.2(d) and 2.2(e) of *Regulation 44-101 respecting Short Form Prospectus Distributions*, CQLR, c. V-1.1, r. 16 (**Regulation 44-101**);

(d) with respect to *Regulation 44-102 respecting Shelf Distributions*, CQLR, c. V-1.1, r. 17 (**Regulation 44-102**), the following base shelf prospectus effectiveness provisions:

i. Paragraph 2.2(1);

ii. Subparagraph 2.2(3)(b)(i);

iii. Subparagraph 2.2(3)(b)(ii);

iv. Subparagraph 2.2(3)(b)(iii);

(the relief in paragraphs (c) and (d) are collectively referred to herein as the **Eligibility Relief**)

(e) the requirement in Section 8.4 of Regulation 44-102 to prepare and file updated earnings coverage ratios;

(f) the requirement under Subsection 11.1(1) of Form 44-101F1 – *Short Form Prospectus* (**Form 44-101F1**) to incorporate documents by reference in a short form prospectus; and

(g) the statement required by Section 11.2 of Form 44-101F1 regarding future-filed documents,

(the relief in paragraphs (e) through (g) above are collectively referred to herein as the **Prospectus Relief**, and the Continuous Disclosure Relief, the Certification Relief, the Eligibility Relief and the Prospectus Relief are collectively referred to herein as the **Exemptions Sought**).

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

(a) the Autorité des marchés financiers is the principal regulator for this application,

(b) the Filer has provided notice that Subsection 4.7(1) of *Regulation 11-102 respecting Passport System*, CQLR, c. V-1.1, r. 1 (**Regulation 11-102**) is intended to be relied upon in Alberta, British Columbia, Manitoba**,** New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, Saskatchewan, Northwest Territories, Nunavut and Yukon, and

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, CQLR, c. V-1.1, r. 3, Regulation 11-102, *Regulation 13-103 respecting System for Electronic Data Analysis and Retrieval + (SEDAR+)*, CQLR, c. V-1.1, r. 2.3 (**Regulation 13-103**), Regulation 44-101, Regulation 44-102, Regulation 51-102 and Regulation 52-109 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. PCC was incorporated under *The Companies Act* (Canada) in 1925 and continued under the *Canada Business Corporations Act* (the **CBCA**) in 1980. The head office of PCC is located in Québec.

2. PCC is a reporting issuer in each of the jurisdictions of Canada and is not in default of any securities legislation in any jurisdiction.

3. PCC's authorized share capital consists of an unlimited number of subordinate voting shares in the capital of PCC (the **Subordinate Voting Shares**), an unlimited number of participating preferred shares (the **Participating Preferred Shares**) and an unlimited number of first preferred shares, issuable in one or more series. As of August 8, 2024, 592,428,219 Subordinate Voting Shares, 54,860,866 Participating Preferred Shares, 6,000,000 5.60% Non-Cumulative First Preferred Shares, Series A, 8,000,000 5.35% Non-Cumulative First Preferred Shares, Series B, 6,000,000 5.80% Non-Cumulative First Preferred Shares, Series C, 10,000,000 5.00% Non-Cumulative First Preferred Shares, Series D, and 8,000,000 5.60% Non-Cumulative First Preferred Shares, Series G were issued and outstanding.

4. The Subordinate Voting Shares, Participating Preferred Shares and each series of outstanding first preferred shares of PCC are listed for trading on the Toronto Stock Exchange (the **TSX**).

5. PCC currently prepares and files consolidated annual and interim financial statements and MD&A, which include the financial information of the Filer and the Filer's subsidiaries and other investees.

6. PCC is required to transmit documents through SEDAR+ in accordance with Regulation 13-103.

7. The Filer is a corporation governed by the CBCA. The head office of the Filer is located in Québec.

8. The Filer is a reporting issuer in each of the jurisdictions of Canada and is not in default of securities legislation in any jurisdiction.

9. The Filer's authorized share capital consists of an unlimited number of common shares in the capital of the Filer (the **Common Shares**), an unlimited number of class A common shares in the capital of the Filer (the **Class A Common Shares**), an unlimited number of first preferred shares, issuable in series (the **PFC First Preferred Shares**), an unlimited number of second preferred shares (the **PFC Second Preferred Shares**), and an unlimited number of third preferred shares (the **PFC Third Preferred Shares**). As of August 8, 2024, 679,161,284 Common Shares, no Class A Common Shares, 4,000,000 Series A Floating Rate Cumulative Redeemable PFC First Preferred Shares, 6,000,000 5.50% Non-Cumulative PFC First Preferred Shares, Series D, 8,000,000 5.25% Non-Cumulative PFC First Preferred Shares, Series E, 6,000,000 5.90% Non-Cumulative PFC First Preferred Shares, Series F, 6,000,000 5.75% Non-Cumulative PFC First Preferred Shares, Series H, 10,000,000 4.95% Non-Cumulative PFC First Preferred Shares, Series K, 8,000,000 5.10% Non-Cumulative PFC First Preferred Shares, Series L, 6,000,000 5.80% Non-Cumulative PFC First Preferred Shares, Series O, 9,657,516 Non-Cumulative 5-Year Rate Reset PFC First Preferred Shares, Series P, 1,542,484 Non-Cumulative Floating Rate PFC First Preferred Shares, Series Q, 10,000,000 5.50% Non-Cumulative PFC First Preferred Shares, Series R, 12,000,000 4.80% Non-Cumulative PFC First Preferred Shares, Series S, 8,000,000 Non-Cumulative 5-Year Rate Reset PFC First Preferred Shares, Series T, 10,000,000 5.15% Non-Cumulative PFC First Preferred Shares, Series V, 8,000,000 4.50% Non-Cumulative OFC First Preferred Shares, Series 23, no PFC Second Preferred Shares, and 100,000,000 PFC Third Preferred Shares were issued and outstanding.

10. Each series of outstanding PFC First Preferred Shares is listed for trading on the TSX and the Filer's 6.9% debentures due March 11, 2033 (the **PFC Debentures**) are outstanding.

11. On February 13, 2020, the Filer and PCC completed an arrangement under section 192 of the CBCA, whereby each Common Share held by holders of Common Shares other than PCC and its wholly-owned subsidiaries, were exchanged for 1.05 Subordinate Voting Shares and $0.01 in cash (the **Reorganization**).

12. The constating documents of the Filer are available under the Filer's SEDAR+ profile.

13. Since the Reorganization, PCC has owned, directly or indirectly, 100% of the issued and outstanding voting and equity securities of the Filer. Accordingly, PCC holds a controlling interest in the Filer and, on that basis, the operations of the Filer are consolidated by PCC for financial statement purposes.

14. The Common Shares were delisted from the TSX following the completion of the Reorganization, and the Common Shares are no longer listed on a public market. The outstanding PFC First Preferred Shares remain shares of the Filer and listed on the TSX and the PFC Debentures remain outstanding. Accordingly, the Filer remains a reporting issuer and a non-venture issuer in each of the jurisdictions of Canada.

15. PCC is a holding company and its interest in the Common Shares and PFC Third Preferred Shares, which are held directly and indirectly, constitute PCC's principal assets.

16. The business of PCC is substantially the same as the business of the Filer. PCC has no operations, assets or liabilities other than its interest in the Filer that are material relative to the consolidated operations, assets and liabilities of PCC.

17. The assets of PCC that are not held through the Filer consist of the following:

    (a) PCC's interests in certain other investees and subsidiaries, including its alternative asset investment platforms under Power Sustainable Capital Inc. and Sagard Holdings Inc. and its investments in Peak Achievement Athletics Inc., LMPG Inc. and The Lion Electric Company; and

    (b) cash and cash equivalents and other assets and investments.

18. PCC and the Filer have the same financial year-end.

19. The Filer benefits from a continuous disclosure relief, certification relief, eligibility relief and a prospectus relief pursuant to decision nº2021-SMV-0002.

Decision

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

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

1. in regard to the Continuous Disclosure Relief:

    (a) PCC remains an electronic filer and a reporting issuer or the equivalent thereof in each of the jurisdictions of Canada in which the Filer is a reporting issuer;

    (b) PCC is not a venture issuer;

    (c) PCC remains the owner, directly or indirectly, of all the issued and outstanding voting and equity securities of the Filer;

    (d) the business of PCC continues to be substantially the same as the business of the Filer, in that PCC has no material operations, assets or liabilities other than its holdings of securities of the Filer and amounts outstanding under the indebtedness, if any, owing, directly or indirectly, to PCC by the Filer, and each of the following consolidated items of the Filer varies from the corresponding consolidated item of PCC by no more than 10% of such corresponding consolidated item of PCC, calculated using the financial statements of PCC, as at and for the most recently completed 3-month period covered by the consolidated interim financial report or consolidated annual financial statements of PCC, as the case may be:

        (i) cash flow from operations;

        (ii) total assets; and

        (iii) total liabilities;

        provided that, if consolidated cash flow from operations of the Filer, so calculated, varies from the corresponding consolidated cash flow from operations of PCC by more than 10% of the consolidated cash flow from operations of PCC, then the Filer may remeasure consolidated cash flow from operations, using the financial information of PCC and the Filer, for the 12-month period ended on the last day of the financial period covered by such consolidated interim financial report or consolidated annual financial statements of PCC,

        (collectively, the **Variance Test**);

    (e) PCC includes disclosure in its annual and interim MD&A, all together in a single location, of the applicable financial figures used to calculate the Variance Test, including cash flow from operations on either a 3-month or a 12-month basis, as applicable;

    (f) PCC includes disclosure in its annual and interim MD&A that identifies the principal differences between the consolidated assets and liabilities of PCC and the Filer;

(g) PCC includes earnings coverage ratio disclosure of the Filer in each annual and interim MD&A regarding any outstanding debt securities distributed to the public by the Filer having a term to maturity in excess of one year and any outstanding preferred shares distributed to the public by the Filer, in each case that would be required under Section 6.1 of Form 44-101F1, using the financial information of the Filer for the 12-month period that ended on the last day of PCC's most recently completed financial period;

(h) PCC includes disclosure in its AIF that would be required of the Filer under Items 6, 7 and 8 of Form 51-102F2 *Annual Information Form*;

(i) PCC complies with the Continuous Disclosure Requirements and files with the Securities Regulatory Authorities all such documents required to be filed under the Legislation at or before the time those documents would have been required to be filed under the Legislation by the Filer;

(j) the Filer has no issued and outstanding securities other than (i) voting and equity securities beneficially owned and controlled, directly or indirectly, by PCC; (ii) non-voting and non-convertible preferred shares, or preferred shares convertible into other preferred shares of the same class as the distributed preferred shares or into equity securities of PCC; and (iii) non-convertible debt securities;

(k) the Filer sends to all Canadian-resident registered holders of securities of the Filer distributed to the public (including, to the extent outstanding, the PFC First Preferred Shares and the PFC Debentures), other than PCC and wholly-owned subsidiaries of PCC, all continuous disclosure materials that are sent to holders of similar securities of PCC, contemporaneously with the furnishing by PCC of such materials to holders of PCC's securities, in accordance with Regulation 51-102 and *Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer*, CQLR, c. V-1.1, r. 29;

(l) if there is a material change in the affairs of the Filer that is not a material change in the affairs of PCC, the Filer complies with the requirements of the Legislation respecting issuance and filing of a press release and filing of a material change report;

(m) the documents required to be filed by PCC under the Continuous Disclosure Requirements are filed under the SEDAR+ profiles of each of PCC and the Filer within the time limits and together with applicable fees required for the filing of such documents;

(n) if there is a "significant acquisition" as defined in Part 8 of Regulation 51-102 of the Filer that is not a "significant acquisition" of PCC, the Filer complies with Part 8 of Regulation 51-102 in respect of such significant acquisition;

(o) the constating documents of the Filer, as amended from time to time, are filed under the SEDAR+ profile of the Filer in accordance with the Legislation;

(p) if there is a document affecting the rights of securityholders of the Filer that has not been filed by PCC, the Filer complies with Part 12 of Regulation 51-102 in respect of the filing of such document;

(q) if there is a material contract of the Filer that has not been filed by PCC, the Filer complies with Part 12 of Regulation 51-102 in respect of the filing of such material contract;

(r) if there is a named executive officer of the Filer, as defined in Form 51-102F6 *Statement of Executive Compensation* (**Form 51-102F6**), or director of the Filer who is not a named executive officer or director of PCC, the information in respect of such named executive officer or director required under Form 51-102F6 is included in the information circular of PCC containing compensation disclosure for named executive officers and directors of PCC in accordance with Form 51-102F6;

(s) the Filer files a notice in its SEDAR+ profile stating that it has been granted the Continuous Disclosure Relief and that investors should refer to the continuous disclosure documents filed by PCC that are also available in the Filer's SEDAR+ profile; and

(t) the Filer and PCC, as applicable, comply with the conditions of the Certification Relief, the Eligibility Relief and the Prospectus Relief;

2. in regard to the Certification Relief:

(a) PCC remains an electronic filer and a reporting issuer or the equivalent thereof in each of the jurisdictions of Canada in which the Filer is a reporting issuer;

(b) PCC complies with the Certification Requirements, and such certificates are filed under the SEDAR+ profiles of each of PCC and the Filer; and

(c) the Filer and PCC, as applicable, comply with the conditions of the Continuous Disclosure Relief, the Prospectus Relief and the Eligibility Relief;

3. in regard to the Eligibility Relief:

(a) the Filer and PCC, as applicable, comply with the conditions of the Continuous Disclosure Relief, the Certification Relief and the Prospectus Relief;

(b) PCC is qualified under Section 2.2 of Regulation 44-101 to file a short form prospectus;

(c) the Filer does not file a short form prospectus or shelf prospectus supplement to distribute Common Shares, Class A Common Shares or securities in respect of which Common Shares or Class A Common Shares may be issued or transferred;

(d) any preferred shares distributed pursuant to a short form prospectus or a shelf prospectus supplement are non-convertible or are convertible into other preferred shares of the same class as the distributed preferred shares or into equity securities of PCC;

(e) any debentures or other debt securities distributed pursuant to a short form prospectus or shelf prospectus supplement are non-convertible; and

(f) any securities distributed pursuant to a short form prospectus or shelf prospectus supplement are preferred shares or debentures or other debt securities and have received a final designated rating;

4. in regard to the Prospectus Relief:

(a) the Filer and PCC, as applicable, comply with the conditions of the Continuous Disclosure Relief, the Certification Relief and the Eligibility Relief;

(b) in relation to Section 8.4 of Regulation 44-102, if the Filer is distributing securities by way of an MTN program or other continuous distribution using the shelf procedures, the Filer does both of the following:

(i) calculates updated earnings coverage ratios for the ratios contained in its base shelf prospectus each time PCC prepares an interim financial report or audited financial statements, using the 12-month period that ended on the last day of PCC's most recently completed financial period; and

(ii) files the updated earnings coverage ratios, concurrently with the filing of PCC's financial statements, in either (A) an exhibit to PCC's financial statements or (B) a shelf prospectus supplement;

(c) the Filer incorporates by reference in any short form prospectus any material change report filed by the Filer since the end of the financial year in respect of which PCC's current AIF is filed;

(d) the Filer makes the statement required by Section 11.2 of Form 44-101F1 in any short form prospectus, with "or PCC" or a reference that is substantively the same added after the words "by the issuer";

(e) for any short form prospectus, the Filer complies with Section 6.1 of Form 44-101F1, except that "the issuer" is to be read as "PCC" and any references to the issuer's annual financial statements or interim financial reports are to be read as those of PCC; and

(f) for any short form prospectus, the Filer complies with Subsection 11.1(1) of Form 44-101F1, except that references to the disclosure documents are to be read as those of PCC;

5. in regard to this decision regarding the Exemptions Sought (the **Decision**), notwithstanding any of the foregoing, if the Variance Test is not met, but the Filer and PCC are otherwise in compliance with all other conditions of the Decision, the Decision shall continue in force until the earlier of (i) the 90th day following the end of the financial period in respect of which the Variance Test was not met and (ii) the date on which the Filer is in compliance with its then-current obligations as a reporting issuer without reliance on the Decision.

This decision replaces decision nº2021-SMV-0002 dated January 19, 2021

"Benoit Gascon"
Directeur principal du financement des sociétés

OSC File #: 2024/0473

B.3.2 Purpose Investments Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Revocation and replacement of previous decision – Relief granted to facilitate the offering of exchange-traded fund securities and conventional mutual fund securities under the same form of prospectus – Relief granted from the requirement in NI 41-101 to file a long form prospectus for exchange-traded fund securities provided that a simplified prospectus is prepared and filed in accordance with NI 81-101 and the filer includes disclosure required pursuant to Form 41-101F2 that is not contemplated by Form 81-101F1 in respect of the exchange-traded fund securities – Filer will file ETF Facts in the form prescribed by Form 41-101F4 in respect of exchange-traded fund securities of a fund and will file a Fund Facts document in the form prescribed by Form 81-101F3 in respect of conventional mutual fund securities of a fund – Technical relief granted from Parts 9, 10 and 14 of NI 81-102 to permit each fund to treat its exchange-traded fund securities and conventional mutual fund securities as separate mutual funds for the purpose of compliance with Parts 9, 10 and 14 of NI 81-102.

Applicable Legislative Provisions

National Instrument 41-101 General Prospectus Requirements, ss. 3.1(2) and 19.1.
National Instrument 81-102 Investment Funds, Parts 9, 10 and 14 and s. 19.1.
Securities Act, R.S.O. 1990, c. S.5, ss. 144 and 147.

September 25, 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
PURPOSE INVESTMENTS INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of each of the Existing Funds (as defined below) and such other mutual funds as are managed or may be managed by the Filer, or an affiliate of the Filer, now or in the future that offer ETF Securities (as defined below) either alone or along with Mutual Fund Securities (as defined below) (collectively, the **Future Funds** and together with the Existing Funds, the **Funds**, and each, a **Fund**), for a decision under the securities legislation of the Jurisdiction (the **Legislation**) granting exemptive relief that:

(a) revokes and replaces the Previous Decision (as defined below) (the **Revocation Relief**);

(b) exempts the Filer, an affiliate of the Filer, and each Fund from the requirement in subsection 3.1(2) of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) to prepare and file a long form prospectus for the ETF Securities in the form prescribed by Form 41-101F2 *Information Required in an Investment Fund Prospectus* (the **Form 41-101F2**) provided that the Filer files (i) a prospectus for the ETF Securities in accordance with the provisions of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**), other than the requirements pertaining to the filing of a fund facts document; and (ii) an ETF facts document in accordance with Part 3B of NI 41-101 (the **ETF Prospectus Form Relief**); and

(c) permits the Filer, an affiliate of the Filer, and each Fund that offers both ETF Securities and Mutual Fund Securities to treat the ETF Securities and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with the provisions of Parts 9, 10 and 14 of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Sales and Redemptions Relief** and collectively with the Revocation Relief and the ETF Prospectus Form Relief, the **Exemption Sought**).

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, NI 41-101 or in NI 81-102 have the same meaning if used in this decision unless otherwise defined herein, and capitalized terms used herein have the meaning ascribed thereto below.

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

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

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

Basket of Securities means, in relation to the ETF Securities of a Fund, a group of some or all of the constituent securities of the Fund, a group of securities or assets representing the constituents of the Fund, or a group of securities selected by the portfolio manager or sub-advisor, as applicable, from time to time.

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

ETF Facts means an ETF facts document prepared in accordance with Part 3B of NI 41-101.

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

Exchange means the Toronto Stock Exchange or Cboe Canada Inc., as applicable.

Existing ETFs means Apple (AAPL) Yield Shares Purpose ETF, Amazon (AMZN) Yield Shares Purpose ETF, Tesla (TSLA) Yield Shares Purpose ETF, Berkshire Hathaway (BRK) Yield Shares Purpose ETF, Alphabet (GOOGL) Yield Shares Purpose ETF, Microsoft (MSFT) Yield Shares Purpose ETF and NVIDIA (NVDA) Yield Shares Purpose ETF.

Existing ETF Series Mutual Funds means the mutual funds managed by the Filer that are distributed pursuant to a simplified prospectus dated October 13, 2023, as amended.

Existing Funds means the Existing ETFs and the Existing ETF Series Mutual Funds.

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

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

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

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

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

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

Representations

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

The Filer

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

2. The Filer currently is registered under the securities legislation in: (a) Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan in the categories of investment fund manager and exempt market dealer; (b) British Columbia, Ontario and Québec in the category of portfolio manager; and Ontario as a commodity trading manager.

3. The Filer, or an affiliate of the Filer, is, or will be, the investment fund manager of each of the Funds.

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

The Funds

5. Each Fund is, or will be, an open-ended mutual fund established as either a trust or a class of shares of a mutual fund corporation under the laws of a Jurisdiction. Each Fund is, or will be, a reporting issuer in the Jurisdictions in which its securities are distributed. Each Fund that relies on the Exemption Sought will offer ETF Securities either alone or along with Mutual Fund Securities.

6. Subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities, each Fund is, or will be, subject to NI 81-102 and Securityholders will have the right to vote at a meeting of Securityholders in respect of matters prescribed by NI 81-102.

7. The Existing ETFs are distributed pursuant to a long form prospectus dated November 28, 2023, as amended, in the form prescribed by Form 41-

101F2. Each of the Existing ETFs currently offers ETF Securities listed on an Exchange.

8. Pursuant to the terms of the Previous Decision (as defined below), the Existing ETF Series Mutual Funds are distributed pursuant to a simplified prospectus dated October 13, 2023, as amended (the **Simplified Prospectus**). Each Existing ETF Series Mutual Fund currently offers ETF Securities listed on an Exchange, as well as Mutual Fund Securities.

9. If the Exemption Sought is granted, it is expected that when the Simplified Prospectus is renewed in 2024, the Filer will file a pro forma simplified prospectus in the form prescribed by Form 81-101F1, in respect of the Existing Funds, pursuant to which it will continue to offer ETF Securities of the Existing Funds. Fund Facts documents in the form prescribed by Form 81-101F3 *Contents of Fund Facts Document* (the **Form 81-101F3**) for each series of Mutual Fund Securities of the Existing Funds and ETF Facts documents in the form prescribed by Form 41-101F4 *Information Required in an ETF Facts Document* (**Form 41-101F4**) for each series of ETF Securities of the Existing Funds will also be filed.

10. The Filer has applied, or will apply, to list any ETF Securities of each of the Funds that relies on the Exemption Sought on an Exchange or another Marketplace. In the case of a Future Fund, the Filer will not file a final or amended simplified prospectus for any of the Funds in respect of the ETF Securities until an Exchange or other applicable Marketplace has conditionally approved the listing of the ETF Securities.

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

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

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

14. In addition to subscribing for and reselling their Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers will also generally be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market.

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

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

The Previous Decision

17. In a previous decision dated August 2, 2013 (the **Previous Decision**), the Existing ETF Series Mutual Funds and such other mutual funds as are managed or may be managed by the Filer now or in the future that offer ETF Securities and Mutual Fund Securities were granted relief similar to the ETF Prospectus Form Relief and the Sales and Redemptions Relief in order to allow ETF Securities of such funds to be offered under a simplified prospectus in the form prescribed by Form 81-101F1.

18. The Previous Decision applies to funds that offer both ETF Securities and Mutual Fund Securities while the Exemption Sought would apply to Funds that offer ETF Securities either alone or along with Mutual Fund Securities. Accordingly, the Filer wishes to revoke and replace the Previous Decision with this decision to allow the Filer to offer Funds that offer ETF Securities alone (i.e. without Mutual Fund Securities) under the same prospectus as Funds that offer Mutual Fund Securities either alone or along with ETF Securities.

ETF Prospectus Form Relief

19. The Filer believes it is more efficient and expedient to include all classes or series of Mutual Fund Securities and ETF Securities (as applicable), in

one prospectus form instead of two different prospectus forms and that this presentation will assist in providing full, true and plain disclosure of all material facts relating to the securities of the Funds by permitting disclosure relating to all classes or series of securities to be included in one prospectus.

20. The Filer or an affiliate will file ETF Facts in the form prescribed by Form 41-101F4 in respect of each class or series of ETF Securities, and will file Fund Facts in the form prescribed by Form 81-101F3 in respect of each class or series of Mutual Fund Securities.

21. The Filer or an affiliate will ensure that any additional disclosure included in the simplified prospectus of the Funds relating to the ETF Securities will not interfere with an investor's ability to differentiate between the Mutual Fund Securities and the ETF Securities and their respective attributes.

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

23. The Funds will comply with Part 3B of NI 41-101 when preparing and filing ETF Facts for the ETF Securities of the Funds.

Sales and Redemption Relief

24. Parts 9, 10 and 14 of NI 81-102 do not contemplate both Mutual Fund Securities and ETF Securities being offered in a single fund structure. Accordingly, without the Sales and Redemption Relief, the Filer or an affiliate and each Fund that offers both ETF Securities and Mutual Fund Securities would not be able to technically comply with those parts of NI 81-102.

25. The Sales and Redemptions Relief will permit the Filer or an affiliate and each Fund that offers both ETF Securities and Mutual Fund Securities to treat the ETF Securities and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with Parts 9, 10 and 14 of NI 81-102. The Exemption Sought will enable each of the ETF Securities and Mutual Fund Securities to comply with Parts 9, 10 and 14 of NI 81-102, as appropriate, for the type of security being offered.

Decision

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

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

1. in respect of the ETF Prospectus Form Relief, the Filer or an affiliate complies with the following conditions;

   (i) the Filer, or an affiliate of the Filer, files a simplified prospectus in respect of the ETF Securities in accordance with the requirements of NI 81-101 and Form 81-101F1, other than the requirements pertaining to the filing of a fund facts document;

   (ii) the Filer, or an affiliate of the Filer, includes disclosure required pursuant to Form 41-101F2 (that is not contemplated by Form 81-101F1) in respect of the ETF Securities in each Fund's simplified prospectus; and

   (iii) the Filer, or an affiliate of the Filer, includes disclosure regarding this decision under the heading "Additional Information" in each Fund's simplified prospectus; and

2. in respect of the Sales and Redemptions Relief, the Filer, or an affiliate of the Filer, and each Fund comply with the following conditions:

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

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

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

Application File #: 2024/0538
SEDAR+ File #: 6183751

B.3.3 Granite Real Estate Investment Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Real estate investment trust and corporation received past relief from NI 51-102, NI 52-109, NI 58-101, NI 44-101, NI 44-102 to accommodate stapled structure. During the period after a reorganization is implemented to terminate the stapled structure and before the filer has filed stand-alone financial statements, the filer will not be able to rely on the past relief. Transitional relief granted from certain continuous disclosure and other requirements of securities laws.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, Parts 4, 5 and 8, and s. 13.1.
National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, ss. 4.2, 5.2 and 8.6.
National Instrument 44-101 Short Form Prospectus Distributions, ss. 2.2, 8.1.
National Instrument 44-102 Shelf Distributions, ss. 2.2 and 11.1.

September 26, 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
GRANITE REAL ESTATE INVESTMENT TRUST
(the Filer)

DECISION

Background

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

Financial Disclosure Requirements

(i) pursuant to section 13.1 of National Instrument 51-102 – *Continuous Disclosure Obligations* (**NI 51-102**), the Filer be exempted from the obligations in Parts 4 and 5 of NI 51-102 relating to the filing of annual and interim financial statements, along with the accompanying annual or interim management's discussion and analysis (**MD&A**), on a stand-alone basis, and relating to the delivery of the same to the holders of trust units (**REIT Units**) of the Filer (the **Financial Disclosure Requirements**);

(ii) pursuant to section 13.1 of NI 51-102, the Filer be exempted from the requirements (the **BAR Requirements**) of Part 8 of NI 51-102 to (i) determine whether an acquisition or probable acquisition is a significant acquisition with reference to stand-alone financial statements of the Filer, and (ii) present stand-alone historical and pro forma financial statements in a business acquisition report (a **BAR**);

(iii) pursuant to section 8.6 of National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109**), the Filer be exempted from the requirements of sections 4.2 and 5.2 of NI 52-109 in respect of filing the chief executive officer and chief financial officer certificates that the Filer would normally have to file if it prepared annual and interim financial statements and MD&A on a stand-alone basis (the **Certificate Form Requirements**);

Short Form **/** Shelf Qualification

(iv) pursuant to section 8.1 of National Instrument 44-101 – *Short Form Prospectus Distributions* (**NI 44-101**), the Filer be exempted from the requirements contained in subparagraph 2.2(d)(i) of NI 44-101 for eligibility to file a

short form prospectus, in particular the requirement that the Filer have current annual financial statements for any period for which the Filer previously filed Combined Financial Statements (as defined below) (the **Short Form Criteria**); and

(v) pursuant to section 11.1 of National Instrument 44-102 – *Shelf Distributions* (**NI 44-102**), subsection 2.2(1) of NI 44-102, with respect to the requirement that the Filer have current annual financial statements for any period for which the Filer previously filed Combined Financial Statements, and subparagraph 2.2(3)(b)(i) of NI 44-102, shall not apply to the Filer (the **Shelf Criteria**),

in each case provided that certain conditions are satisfied.

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

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

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

Interpretation

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

Representations

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

1. The Filer is a trust formed under the laws of the Province of Ontario. The Filer is a Canadian-based real estate investment trust engaged, directly and through its subsidiaries, primarily in the acquisition, development, construction, leasing, management and ownership of a predominantly industrial rental portfolio of properties in North America and Europe.

2. Granite REIT Inc. (**Granite GP**) is a corporation formed under the *Business Corporations Act* (British Columbia). Granite GP acts as the general partner of Granite REIT Holdings Limited Partnership (**Granite LP**), a limited partnership under the laws of the Province of Québec. The Filer is the sole limited partner of Granite LP.

3. Each of the Filer and Granite GP is a reporting issuer or the equivalent under the securities legislation of each Jurisdiction and, to their knowledge, on the date hereof neither of the Filer and Granite GP is in default of applicable Legislation of each Jurisdiction or the rules and regulations made pursuant thereto.

4. As provided in the Amended and Restated Declaration of Trust of Granite REIT dated June 9, 2022 and the articles of Granite GP, each REIT Unit is stapled to a common share of Granite GP (a **Common Share**) (and each Common Share is stapled to a REIT Unit) to form a "stapled unit" (a **Stapled Unit**), and a REIT Unit, together with a Common Share, trade together as Stapled Units (the **Stapled Structure**) until there is an "Event of Uncoupling".

5. Pursuant to a decision document dated December 21, 2012 *In the Matter of Granite Real Estate Inc. (the Filer) on its Own Behalf and on Behalf of Granite Real Estate Investment Trust (Granite REIT) and Granite REIT Inc. (Granite GP)* (the **2012 Decision**) as modified by a decision document dated May 16, 2014 *In the Matter of Granite Real Estate Investment Trust and Granite REIT Inc.* (the **2014 Decision**, and together with the 2012 Decision, the **2012 and 2014 Decisions**), subject to certain conditions stipulated therein: (i) the Filer has been granted an exemption from the Financial Disclosure Requirements; (ii) Granite GP has been granted, pursuant to section 13.1 of NI 51-102, an exemption from the obligations in Parts 4 and 5 of NI 51-102 relating to the filing of annual and interim financial statements, along with the accompanying annual or interim MD&A, on a stand-alone basis, and relating to the delivery of the same to the holders of Common Shares; (iii) each of the Filer and Granite GP has been granted an exemption from the BAR Requirements; (iv) each of the Filer and Granite GP has been granted an exemption from the Short Form Criteria, in particular, the requirement that each of the Filer and Granite GP has current annual financial statements for any period for which the Filer files one set of financial statements for the Filer and Granite GP prepared on a combined basis (**Combined Financial Statements**); and (v) each of the Filer and Granite GP has been granted an exemption from the Certificate Form Requirements.

6. Pursuant to the 2012 and 2014 Decisions, the Filer and Granite GP obtained relief similar to the Requested Relief in connection with the Financial Disclosure Requirements, the BAR Requirements, the Certificate Form Requirements and the Short Form Criteria (the **2012 and 2014 Relief**).

7. Pursuant to a decision document dated June 6, 2019 *In the Matter of Granite Real Estate Investment Trust and Granite REIT Inc.* (the **2019 Decision**) each of the Filer and Granite GP has been granted an exemption from subsection 2.2(3)(b)(i) of NI 44-102.

8. Pursuant to the 2019 Decision, each of the Filer and Granite GP obtained relief similar to the Requested Relief in connection with the Shelf Criteria (the **2019 Relief**, together with the 2012 and 2014 Relief, the **Prior Relief**).

9. One of the conditions to the Prior Relief is that the REIT Units and the Common Shares remain stapled.

10. On April 15, 2024, the Filer and Granite GP announced a proposed reorganization of the Stapled Structure (the **Reorganization**). The Reorganization was described in the joint management information circular/proxy statement of the Filer and Granite GP dated April 10, 2024. Joint annual general and special meetings of unitholders of the Filer and shareholders of Granite GP were held on June 6, 2024 to approve the Reorganization. The voting unitholders of the Filer and the voting shareholders of Granite GP each approved the Reorganization by the requisite majority, with approximately 99% of the votes cast by each of the voting unitholders of the Filer and the voting shareholders of Granite GP, respectively, voting in favour of the Reorganization. On June 10, 2024, the Filer and Granite GP announced receipt of a final order from the Supreme Court of British Columbia approving the Reorganization.

11. The Reorganization will be effected by way of plan of arrangement involving the Filer and Granite GP resulting in, among other things, (i) the occurrence of an "Event of Uncoupling", (ii) each Common Share will be transferred from each holder of Common Shares to the Filer, in exchange for the issuance of fractional REIT Units by the Filer to each such holder, (iii) the issued and outstanding REIT Units will be consolidated such that each holder of REIT Units will hold the same number of REIT Units after the consolidation as the holder held prior to the Reorganization; (iv) Granite GP will become a wholly-owned subsidiary of Granite REIT; and (v) termination of the Stapled Structure. The Filer will continue to exist and be a reporting issuer and holders of REIT Units will continue to hold those units. As a result of the Reorganization, none of the Common Shares will be held by the public and Granite GP will separately apply to the Principal Regulator for Granite GP to cease to be a reporting issuer. The REIT Units are expected to trade on the Toronto Stock Exchange under the ticker symbol "GRT.UN" and on the New York Stock Exchange under the ticker symbol "GRP.U". As a consequence of the Reorganization, the REIT Units and the Common Shares will be "unstapled" and Stapled Units will no longer trade on those exchanges.

12. The Reorganization remains subject to customary closing conditions and is expected to be implemented in the fourth quarter of 2024.

13. If the Filer relies on the Requested Relief from the Short Form Criteria or Shelf Criteria, each short form prospectus, prospectus supplement or pricing supplement to a short form base shelf prospectus, or other similar public offering document filed by the Filer qualifying the distribution of securities of the Filer (a **Prospectus**), will incorporate by reference at least the following documents (the **Prospectus Documents**):

    (a) the Filer's then current annual information form (**the Filer's Current AIF**);

    (b) the most recently filed audited annual Combined Financial Statements, along with the corresponding MD&A, until such time as the Filer files its next audited annual financial statements in accordance with NI 51-102 (expected to be by March 31, 2025);

    (c) if, at the date of the Prospectus, the Filer has filed or has been required to file interim financial statements for its most recently completed interim period and Combined Financial Statements of the Filer and Granite GP relating to the applicable interim period have been filed, such Combined Financial Statements of the Filer and Granite GP relating to such interim period, along with the corresponding interim MD&A, or (ii) if, at the date of the Prospectus, the Filer has filed or has been required to file interim financial statements for a period subsequent to the then most recent financial year-end of the Filer in respect of which annual financial statements have been filed, and such interim financial statements are stand-alone financial statements of the Filer, such stand-alone interim financial statements relating to such interim period, along with the corresponding interim MD&A;

    (d) the content of any news release or other public communication that is publicly disseminated by, or on behalf of, the Filer prior to the filing of the Prospectus through news release or otherwise and that contains historical financial information about the Filer and Granite GP, or the Filer on a stand-alone basis, as applicable for a period more recent than the end of the most recent period for which financial statements are required under paragraphs (b) and (c) above;

    (e) any material change report, other than a confidential material change report, filed by the Filer under Part 7 of NI 51-102 since the end of the financial year in respect of which the Filer's Current AIF is filed;

(f) any BAR filed by the Filer for acquisitions completed since the beginning of the financial year in respect of which the Filer's Current AIF is filed, unless:

(i) the BAR is incorporated by reference in the Filer's Current AIF; or

(ii) at least nine months of the relevant business operations are reflected in annual financial statements required under paragraph (b) above;

(g) any information circular filed by the Filer since the beginning of the financial year in respect of which the Filer's Current AIF is filed, other than an information circular prepared in connection with an annual general meeting of the Filer if the Filer has filed and incorporated by reference in the Prospectus an information circular for a subsequent annual general meeting; and

(h) any other disclosure document which the Filer has filed pursuant to an undertaking to a provincial and territorial securities regulatory authority, or pursuant to an exemption from any requirement of securities legislation of a Canadian jurisdiction, since the beginning of the financial year in respect of which the Filer's Current AIF is filed.

14. As a result of the 2012 and 2014 Decisions, prior to the effective date of the Reorganization, the Filer is exempt from the requirement to file financial statements and MD&A in accordance with NI 51-102 subject to certain conditions, including that the Filer files Combined Financial Statements and related MD&A and that each REIT Unit remains stapled to a Common Share and trades together as a Stapled Unit. Accordingly, following the effective date of the Reorganization, at the time the Filer files a short form prospectus pursuant to NI 44-101, or a short form base shelf prospectus pursuant to NI 44-102, it will not be able to satisfy the Short Form Criteria or Shelf Criteria, respectively, as it will not have current annual financial statements, as it has only prepared and filed Combined Financial Statements since the 2012 and 2014 Decisions, and the Prior Relief will no longer be effective as the Stapled Units will have become "unstapled".

15. The Filer has satisfied, and is currently satisfying, each of the conditions to the Prior Relief.

16. For the period from the effective date of the Reorganization until the Filer has filed its own stand-alone annual financial statements pursuant to NI 51-102 (expected to be by March 31, 2025), the Filer would not be able to satisfy the Short Form Criteria or Shelf Criteria, absent the Requested Relief.

17. If the Reorganization is implemented following the end of an interim period or fiscal year but prior to the time the Filer files Combined Financial Statements and accompanying MD&A for such interim period or fiscal year, the Filer will not be able to rely on the 2012 and 2014 Relief when filing the financial statements and MD&A for such interim period or fiscal year because the REIT Units and Common Shares will become "unstapled" as part of the Reorganization and will no longer trade together as Stapled Units. For such an interim period or fiscal year, the Filer will file Combined Financial Statements and accompanying MD&A for that interim period or fiscal year in accordance with the Requested Relief. The Requested Relief in this regard will be conditional upon, among other things, (i) the Stapled Structure having been in existence at the end of the applicable interim period or fiscal year, and (ii) the Reorganization having been implemented prior to the Filer having filed Combined Financial Statements and accompanying MD&A for such interim period or fiscal year. In such circumstances, following the completion of the fiscal period in which the Reorganization is implemented, the Filer will file stand-alone financial statements and accompanying MD&A in accordance with NI 51-102.

Decision

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

2. The decision of the principal regulator under the Legislation is that the Requested Relief is granted effective on completion of the Reorganization, provided that the Reorganization is implemented in substantially the manner contemplated by the representations above and provided that the conditions set out below are satisfied:

(a) In respect of the Financial Disclosure Requirements:

(i) the Filer files, under its SEDAR+ profile, Combined Financial Statements using International Financial Reporting Standards (**IFRS**) to reflect the financial position and results of the Filer and Granite GP on a combined basis for any completed fiscal period prior to implementation of the Reorganization;

(ii) any Combined Financial Statements filed by the Filer include the components specified in subsections 4.1(1) of NI 51-102 (for annual financial reporting periods) and 4.3(2) of NI 51-102 (for interim financial reporting periods);

(iii) the annual Combined Financial Statements filed by the Filer are audited;

(iv) the annual Combined Financial Statements filed by the Filer are accompanied by the fee, if any, applicable to filings of annual financial statements;

(v) the MD&A of the Filer is prepared with reference to the Combined Financial Statements for any completed fiscal period prior to implementation of the Reorganization;

(vi) the Filer and Granite GP satisfied or were exempt from the requirements set out in National Instrument 52-110 – *Audit Committees* prior to implementation of the Reorganization;

(vii) the audit committee of the Filer is responsible for:

(A) overseeing the work of the external auditors engaged for the purposes of auditing or reviewing the Combined Financial Statements under IFRS for any completed fiscal period prior to implementation of the Reorganization; and

(B) resolving disputes between the external auditors and management of the Filer regarding financial reporting;

(viii) the Filer continues to satisfy the requirements of section 4.6 of NI 51-102, except that for each financial reporting period in respect of which Combined Financial Statements are prepared, the Filer shall only be required to send to holders of REIT Units copies of the Combined Financial Statements and related MD&A;

(ix) the auditors of the Filer are the same as the auditors of Granite GP prior to implementation of the Reorganization;

(x) prior to the implementation of the Reorganization, except for distributions of REIT Units that were immediately followed by a consolidation of outstanding REIT Units such that an equal number of REIT Units and Common Shares are outstanding immediately following such consolidation, (A) the Filer did not issue any REIT Units that were not stapled to Common Shares, (B) each REIT Unit was stapled to a Common Share and traded as a Stapled Unit, and (C) each Common Share was stapled to a REIT Unit and traded as a Stapled Unit;

(xi) prior to the implementation of the Reorganization, except for distributions of Common Shares that were immediately followed by a consolidation of outstanding Common Shares such that an equal number of Common Shares and REIT Units were outstanding immediately following such consolidation, (A) Granite GP did not issue any Common Shares that were not stapled to REIT Units, (B) each Common Share was stapled to a REIT Unit and traded as a Stapled Unit, and (C) each REIT Unit was stapled to a Common Share and traded as a Stapled Unit; and

(xii) each Stapled Unit was listed and posted for trading on the TSX prior to the implementation of the Reorganization.

(b) In respect of the BAR Requirements:

(i) the Filer satisfied each of the conditions set out in paragraph 2(a) above that were to be satisfied prior to implementation of the Reorganization, and satisfies each of the conditions set out in paragraph 2(a) above that are to be satisfied following implementation of the Reorganization;

(ii) the Filer applies the significance tests under subsection 8.3(2) of NI 51-102 with reference to the most recent annual Combined Financial Statements until such time as the Filer files its next audited annual financial statements in accordance with NI 51-102 (expected to be by March 31, 2025);

(iii) the Filer applies the optional significant tests under Section 8.3(4) of NI 51-102 with reference to the most recently filed interim financial statements that are Combined Financial Statements until such time as the Filer files its next financial statements for an interim period or fiscal year that are not Combined Financial Statements;

(iv) if a BAR is required to be filed, the BAR includes, with respect to the Filer, pro forma combined and/or stand-alone financial statements for the applicable periods and as at the applicable statement of financial position date.

(c) In respect of the Certificate Form Requirements:

(i) the Filer satisfied each of the conditions set out in paragraph 2(a) above that were to be satisfied prior to implementation of the Reorganization, and satisfies each of the conditions set out in paragraph 2(a) above that are to be satisfied following implementation of the Reorganization;

(ii) the certificates filed by the Filer in accordance with section 4.1 of NI 52-109, in connection with the filing of Combined Financial Statements prepared under IFRS for each completed annual financial reporting period prior to the implementation of the Reorganization, are substantially in the form required by section 4.2 of NI 52-109, except that the certificates refer to and certify matters in respect of the filing of the Filer's annual information form and the Combined Financial Statements and related MD&A; and

(iii) the certificates filed by the Filer in accordance with section 5.1 of NI 52-109, in connection with the filing of Combined Financial Statements prepared under IFRS for each completed interim financial reporting period prior to implementation of the Reorganization, are substantially in the form required by section 5.2 of NI 52-109, except that the certificates refer to and certify matters in respect of the filing of Combined Financial Statements and related MD&A.

(d) In respect of the Short Form Criteria:

(i) the Filer satisfied each of the conditions set out in paragraph 2(a) above that were to be satisfied prior to implementation of the Reorganization, and satisfies each of the conditions set out in paragraph 2(a) above that are to be satisfied following implementation of the Reorganization;

(ii) the Filer satisfies the criteria in section 2.2 of NI 44-101 except for the requirement in subparagraph 2.2(d)(i);

(iii) each REIT Unit is listed and posted for trading on a short form eligible exchange (as defined in NI 44-101); and

(iv) each Prospectus filed by the Filer incorporates by reference the Prospectus Documents.

(e) In respect of the Shelf Criteria, the Filer continues to satisfy the conditions set out in paragraph 2(d) above.

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

OSC File #: 2024/0454

B.3.4 Gran Tierra Energy Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from the prospectus requirement for certain marketing activities not expressly permitted by National Instrument 71-101 The Multijurisdictional Disclosure System so that investment dealers acting as underwriters or selling group members of an issuer are permitted to use standard term sheets and marketing materials and conduct road shows (each as defined under National Instrument 41-101 General Prospectus Requirements) after a final receipt for an MJDS prospectus – NI 71-101 does not contain equivalent provisions to Part 9A of National Instrument 44-102 Shelf Distributions – relief granted, provided that any road shows, standard term sheets and marketing materials for any future offering under the Final MJDS Prospectus would comply with the approval, content, use and other conditions and requirements of Part 9A of NI 44-102 in the manner in which they would apply if the Final MJDS Prospectus were a final base shelf prospectus under NI 44-102.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53 and 74(1)2.
National Instrument 71-101 The Multijurisdictional Disclosure System, s. 11.3.

Citation: *Re Gran Tierra Energy Inc.*, 2024 ABASC 152

September 26, 2024

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

AND

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

AND

IN THE MATTER OF
GRAN TIERRA ENERGY INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from the prospectus requirement to allow investment dealers acting as underwriters (as defined in the Legislation) or selling group members of (a) the Filer, or (b) a selling securityholder of the Filer to (i) provide standard term sheets and marketing materials, and (ii) conduct road shows in connection with offerings under the Final MJDS Prospectus (as defined below) (the **Exemption Sought**).

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

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of British Columbia, Saskatchewan, Manitoba, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and Labrador (together with the Jurisdictions, the **Provinces**); and

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, National Instrument 41-101 *General Prospectus Requirements*, National Instrument 44-102 *Shelf Distributions* (**NI 44-102**) or National Instrument 71-101 *The Multijurisdictional Disclosure System* (**NI 71-101**) and National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

1. The Filer is a corporation incorporated under the laws of Delaware.

2. The head office of the Filer is located in Calgary, Alberta.

3. As of the date hereof, the Filer is a reporting issuer in each of the provinces of Canada and is an "SEC foreign issuer" and a "U.S. issuer". The Filer is not in default of securities legislation in any of the provinces of Canada.

4. The Filer filed a registration statement on Form S-3 with the SEC on August 1, 2024 (the **Registration Statement**) containing a prospectus (the **US Base Shelf Prospectus**). The Registration Statement registers the sale in the United States, from time to time, in one or more offerings and pursuant to one or more supplements to the US Base Shelf Prospectus, shares of the Filer's common stock, shares of the Filer's preferred stock, warrants and subscription receipts.

5. The Filer filed a final MJDS prospectus dated September 5, 2024 in the Provinces that includes the US Base Shelf Prospectus (the **Final MJDS Prospectus**) and will qualify the distribution in the Provinces, from time to time, in one or more offerings and pursuant to one or more supplements to the Final MJDS Prospectus, of shares of the Filer's common stock, shares of the Filer's preferred stock, warrants and subscription receipts.

6. NI 44-102 sets out the requirements for a distribution under a base shelf prospectus in Canada, including requirements for advertising and marketing activities. In particular, Part 9A of NI 44-102 entitled *Marketing in Connection with Shelf Distributions* (**Part 9A**) prohibits, after the issuance of a receipt for a final base shelf prospectus, the provision of standard term sheets or marketing materials or the conducting of road shows, unless the conditions and requirements in Part 9A (the **Part 9A Conditions and Requirements**) are complied with. NI 71-101 does not contain provisions equivalent to those of Part 9A.

7. In connection with marketing an offering in the Provinces under the Final MJDS Prospectus, investment dealers acting as underwriters or selling group members of (a) the Filer, or (b) a selling securityholder of the Filer may wish to provide standard term sheets and marketing materials and conduct road shows.

8. Canadian purchasers, if any, of securities offered under the Final MJDS Prospectus will only be able to purchase those securities through an investment dealer registered in the province of residence of the purchaser.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that the Part 9A Conditions and Requirements are complied with for any future offering under the Final MJDS Prospectus in the manner in which they would apply if the Final MJDS Prospectus were a final base shelf prospectus under NI 44-102.

For the Commission:

“Stan Magidson”
Chair & CEO

“Tom Cotter”
Vice-Chair

OSC File #: 2024/0513

B.3.5 Tobias Lütke

Headnote

National Policy 11-201 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the prospectus requirement for trades by a control person of an issuer under automatic securities disposition plans – Applicant intends to annually establish an automatic securities disposition plan (ASDP) in accordance with the guidance provided under CSA Staff Notice 55-317 Automatic Securities Disposition Plans and make orderly sales of securities of the issuer under the ASDP – Trades by the applicant as a control person under the ASDP deemed to be a distribution attracting the prospectus requirement – Applicant cannot rely on the prospectus exemption for a trade by a control person in s. 2.8 of NI 45-102 because the seven-day waiting period requirement in paragraph 2.8(3)(b) and the 30-day expiry provision in paragraph 2.8(4)(a) of NI 45-102 would prevent continued or successive dispositions under the ASDP by requiring the applicant to refile a Form 45-102F1 every 30 days and wait at least seven days before making the first trade after each filing of a Form 45-102F1 – Compliance with all conditions of s. 2.8 of NI 45-102 would impede applicant's ability to establish, and effect orderly trades under, an ASDP – Relief granted from the prospectus requirement for trades effected by the control person under the ASDP subject to conditions consistent with the policy rationale underlying section 2.8 of NI 45-102 – Relief expires on December 31, 2025.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53(1) and 74(1).
National Instrument 45-102 Resale of Securities, s. 2.8.

June 10, 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
TOBIAS LÜTKE
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") granting an exemption from the prospectus requirement under the Legislation in connection with the sale of Class A Shares (as defined below) of Shopify Inc. (the **Issuer**) by the Filer under a Filer ASDP (as defined below) (the **Exemption Sought**).

Furthermore, the principal regulator has also received a request from the Filer for a decision that the Application and this decision be kept confidential until the earlier of: (i) the public disclosure by the Filer of the establishment of a new Filer ASDP; and (ii) 90 days from the date of this decision (the **Confidentiality Relief**).

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions* 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 Issuer is a corporation incorporated under the *Canada Business Corporations Act*.

2. The Issuer's authorized share capital consists of: (i) an unlimited number of Class A subordinate voting shares (the **Class A Shares**), (ii) an unlimited number of Class B restricted voting shares (the **Class B Shares**), (iii) one founder share (the **Founder Share** and together with the Class A Shares and the Class B Shares, the **Shares**), and (iv) an unlimited number of preferred shares, issuable in series (the **Preferred Shares**).

3. On June 28, 2022, the Issuer amended its articles, to subdivide each Class A Share and each Class B Share on a ten-for-one (10:1) basis (the **Share Split**).

4. Holders of Class A Shares have one vote for every Class A Share. Holders of Class B Shares have ten votes for every Class B Share. The Class B Shares are convertible into Class A Shares on a one-for-one basis at any time at the option of the holders thereof and automatically in certain other circumstances. The Founder Share is held by the Filer and has a variable number of votes that represents, when combined with the votes attached to certain other shares of the Issuer beneficially held by the Filer and certain of his affiliates, at least 40% of the voting power attached to all of the Issuer's outstanding voting shares, provided that such variable number of votes does not cause the Filer and certain of his affiliates to exceed 49.9% of the aggregate voting power attached to all of the Issuer's outstanding voting shares. The Founder Share may not be directly or indirectly transferred by the Filer.

5. As of May 2, 2024, 1,209,425,431 Class A Shares, 79,258,749 Class B Shares, the Founder Share and no Preferred Shares were issued and outstanding. The Class A Shares represented 59.83% of the aggregate voting rights attached to all of the Issuer's outstanding Shares, the Class B Shares represented 39.21% of the aggregate voting rights attached to all of the Issuer's outstanding Shares and the Founder Share represented approximately 0.96% of the aggregate voting rights attached to all of the Issuer's outstanding Shares.

6. The Class A Shares are listed on the New York Stock Exchange and on the Toronto Stock Exchange under the symbol "SHOP".

7. The Issuer issued US$920,000,000 aggregate principal amount of 0.125% senior convertible notes (the **Senior Notes**) in each of the provinces and territories in Canada, other than Quebec, by way of prospectus supplement dated September 15, 2020 to the Issuer's short form base shelf prospectus dated August 6, 2020. The Senior Notes are convertible into Class A Shares, at an initial conversion rate of 0.6944 Class A Shares (following the Share Split, the initial conversion rate is equal to 6.944 Class A Shares) per $1,000 aggregate principal amount of Senior Notes and mature on November 1, 2025 unless redeemed, repurchased, or converted prior to maturity.

8. The Issuer is a reporting issuer in each of the Jurisdictions and is not in default of the securities legislation in any Jurisdiction.

9. The Filer is the Chief Executive Officer and Chair of the Board of the Issuer.

10. On August 26, 2015, the Filer established an automatic securities disposition plan (the **Filer's Original ASDP**) which terminated on December 31, 2016.

11. Pursuant to a decision of the OSC dated November 15, 2016 (the **Original Exemption for Tobias Lütke**), the Filer was granted exemptive relief to establish new automatic securities disposition plans, annually, in order to continue to allow the Filer to make orderly sales of Class A Shares from the Filer's holdings over time (each, a **Annual Filer ASDP**) following termination of the Filer's Original ASDP on December 31, 2016, and subsequently once each Annual Filer ASDP terminated, on December 31 of each year. The Original Exemption for Tobias Lütke expired on January 1, 2020.

12. Pursuant to a decision of the OSC dated December 6, 2019 (the **2019 Exemption for Tobias Lütke**), the Filer was granted exemptive relief to establish an Annual Filer ASDP following termination of the Filer's Original ASDP on December 31, 2016. The 2019 Exemption for Tobias Lütke expired on January 1, 2021.

13. Pursuant to a decision of the OSC dated December 1, 2020 (the **2020 Exemption for Tobias Lütke**), the Filer was granted exemptive relief to establish an Annual Filer ASDP following termination of the Filer's 2019 ASDP on December 31, 2020. The 2020 Exemption for Tobias Lütke expired on January 1, 2022.

14. The Filer had, beginning on August 26, 2015 and ending on January 1, 2022, continually established ASDPs in order to be able to continue to make orderly sales of Class A Shares from the Filer's holdings from time-to-time and may continue to establish ASDPs in the future for the same reason (each a "**Filer ASDP**")

15. As of May 2, 2024, the Filer directly or indirectly owned, in aggregate, 646,932 Class A Shares (the **Filer Class A Shares**), 78,918,520 Class B Shares (the **Filer Class B Shares**) and the Founder Share. The Filer Class A Shares represent approximately 0.05% of the outstanding Class A Shares, the Filer Class B Shares represent approximately 99.57% of the outstanding Class B Shares and the Filer holds the only Founder Share. As a result, the Filer owns, directly or indirectly, or exercises control or direction over shares representing 40.03% of the aggregate voting power attached to all of the Issuer's outstanding voting Shares. In addition, the Filer has been granted 432,513 restricted share units (the **RSUs**) and 5,024,835 share purchase options (the **Options**), that entitle the Filer to 5,457,348 Class A Shares upon vesting, and in the case of the Options, payment of the exercise price therefor and, in each case, subject to the conditions thereof.

16. The Filer is currently deemed to be a control person of the Issuer under the Legislation and the securities legislation of the Jurisdictions in which the Issuer is a reporting issuer.

17. The Filer is not in default of the securities legislation in any Jurisdiction.

Automatic Securities Disposition Plan

18. The Filer intends to establish a new Filer ASDP.

19. The Filer ASDP will be established in accordance with applicable securities legislation and staff guidance, including Canadian Securities Administrators Staff Notice 55-317 *Automatic Securities Disposition Plans* (**Staff Notice 55-317**), including the following:

    i. the Issuer will oversee the establishment and use of each Filer ASDP;

    ii. a Filer ASDP will include provisions prohibiting the commencement of sales under the Filer ASDP until after the filing of the Issuer's next interim financial report or annual financial statements;

    iii. a Filer ASDP will include clear written trading parameters and other instructions, in the form of a written plan document, to the securities dealer appointed in connection with the Filer ASDP. The Filer ASDP will either include a formula or specify the number of securities to be sold, and set out any minimum trade price, if any, and any date or frequency of sales;

    iv. a Filer ASDP will provide for a term that is sufficiently long to avoid any potential use of Material Undisclosed Information (as defined below);

    v. a Filer ASDP will include meaningful restrictions on the ability of the Filer to amend, suspend or terminate such Filer ASDP;

    vi. a Filer ASDP will include provisions prohibiting the securities dealer from consulting with the Filer regarding any sales under the Filer ASDP and the Filer from disclosing information to the securities dealer concerning the Issuer that might influence the execution;

    vii. the Issuer will oversee the establishment and use of the Filer ASDP through application of its internal policies;

    viii. at the time the Filer enters into a Filer ASDP, the Filer will not possess any knowledge of a material fact or material change with respect to the Issuer that has not been generally disclosed (collectively, **Material Undisclosed Information**) and the Filer ASDP will be entered into in accordance with the Issuer's insider trading policy;

    ix. a Filer ASDP will be entered into in good faith and not as part of a plan or scheme to evade the prohibitions of securities legislation in any jurisdiction or any other applicable securities laws;

    x. an establishment of a Filer ASDP will be disclosed by way of a news release of all relevant information on the System for Electronic Document Analysis and Retrieval (SEDAR+); and

    xi. the Filer will file an insider report on the System for Electronic Disclosure by Insiders (SEDI) each time a trade is made under the Filer ASDP, specifying that such trade was made under the Filer ASDP.

20. It is anticipated that pursuant to the terms of a Filer ASDP, among other things:

    i. all sales of Class A Shares will be conducted by a securities dealer on behalf of the Filer, with no participation by or direction or advice from the Filer;

ii. the total number of Class A Shares sold in the Sales Period (as defined below) under the Filer ASDP in reliance on the Exemption Sought will not exceed 2% of the total number of Class A Shares outstanding, as of the date of the establishment of such Filer ASDP; and

iii. all sales of Class A Shares will be conducted over a period (the **Sales Period**) that is specified in the corresponding Form 45-102F1 *Notice of Intention to Distribute Securities* (a Form 45-102F1) *under Section 2.8 of National Instrument 45-102 Resale of Securities* filed after the Filer ASDP is entered into as further described herein.

21. It is the intention of the Filer and the Issuer to rely on the exemption from the insider trading restriction available to trades conducted under automatic plans in the Legislation and corresponding law and regulation in the Jurisdictions for trades conducted under automatic plans.

22. Under the Filer ASDP intended to be effective on or around, June 10, 2024 (the **Effective Date**) it is currently the intention of the Filer to sell up to approximately 2,564,964 Class A Shares, which may include Class A Shares currently, directly or indirectly, held by Filer, Class A Shares issued to the Filer upon conversion of Class B Shares, Class A Shares issued to the Filer upon the vesting and/or exercise of the RSUs and/or Options of the Issuer, and/or Class A Shares owned by holding entities or charitable foundations over which the Filer may be considered to have, or share in the exercise of, control or direction.

23. If the Filer is deemed to be a control person of the Issuer, any sale of the Filer Class A Shares would be considered a "control distribution" (as such term is defined in National Instrument 45-102 *Resale of Securities* (**NI 45-102**)), and the Filer would either have to comply with the prospectus requirement or satisfy the conditions of the exemption from the prospectus requirement for trades by a control person in section 2.8 of NI 45-102 (the **Prospectus Exemption for Control Trades**).

24. The Filer's compliance with each of the conditions of the Prospectus Exemption for Control Trades would impede the implementation and operation of a Filer ASDP because the seven-day waiting period requirement in paragraph 2.8(3)(b) and the 30-day expiry provision in paragraph 2.8(4)(a) of NI 45-102 would prevent continued or successive dispositions under the Filer ASDP by requiring that the Filer refile a Form 45-102F1 respecting the proposed sales of Class A Shares every 30 days over the course of the duration of a Filer ASDP and that the Filer wait at least seven days before making the first trade after each filing of a Form 45-102F1. Compliance with these requirements would effectively limit the Filer's ability to conduct sales of Class A Shares to intermittent 23-day windows, separated by seven-day waiting periods, which would have a material detrimental impact on the Filer's ability to implement a Filer ASDP.

25. In absence of the Filer's compliance with each of the conditions of the Prospectus Exemption for Control Trades, the Filer requests the Exemption Sought in order to relieve the Filer from the prospectus requirement in connection with each disposition of Filer Class A Shares under a Filer ASDP and enable the establishment of a Filer ASDP in accordance with Staff Notice 55-317, while still providing timely and meaningful public disclosure of the intended and completed sales by the Filer of Class A Shares consistent with the policy rationale underlying section 2.8 of NI 45-102.

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:

(a) each Filer ASDP includes provisions restricting the commencement of sales under a Filer ASDP until after the filing of the Issuer's next interim financial report or annual financial statements;

(b) each Filer ASDP includes meaningful restrictions on the ability of the Filer to amend, suspend, or terminate the Filer ASDP;

(c) all sales of Class A Shares under a Filer ASDP are conducted by a securities dealer with no participation by or direction or advice from the Filer;

(d) at the time the Filer enters into a Filer ASDP, the Filer does not possess any Material Undisclosed Information;

(e) the total number of the Class A Shares sold under a Filer ASDP does not exceed 2% of the total number of Class A Shares outstanding, as of the date of the establishment of such Filer ASDP;

(f) the Filer files a completed and signed notice in the form of Form 45-102F1 (a "**Notice**") in accordance with NI 45-102 at least seven days prior to the first trade of Class A Shares under any Filer ASDP that discloses the

aggregate number of Class A Shares intended to be sold under the Filer ASDP, and the Sales Period for the sale of Class A Shares under the Filer ASDP;

(g) the Filer files insider reports within three days of the completion of each sale under a Filer ASDP in accordance with the insider reporting obligation applicable to trades by a control person in paragraph 2.8(3)(c) of NI 45-102;

(h) the Sales Period under any Filer ASDP is equal to a minimum of 12 months;

(i) the Notice for a Filer ASDP is signed no earlier than one business day before it is filed;

(j) the Notice filed in connection with trades under any Filer ASDP expires on the earlier of:

i. the end of the applicable Sales Period; and

ii. the date that the Filer files the last of the insider reports reflecting the sale of all Class A Shares referred to in the Notice;

(k) the Filer does not conduct further sales of Class A Shares under a Filer ASDP following the expiry of the Notice for that Filer ASDP;

(l) the Filer does not conduct sales of Class A Shares under a Filer ASDP prior to the expiry of the Notice for any previously commenced Filer ASDP;

(m) the Issuer is and has been a reporting issuer in the jurisdiction of Canada for the four months immediately preceding each trade under any Filer ASDP;

(n) the Filer has held any Class A Shares, or securities or related financial instruments that were converted into or exercised or settled for such Class A Shares, sold under a Filer ASDP for at least four months prior to the trade of such Class A Shares;

(o) no unusual effort is made to prepare the market or to create a demand for the Class A Shares;

(p) no extraordinary commission or consideration is paid to a person or company in respect of the trade;

(q) the Issuer is not in default of securities legislation; and

(r) the Exemption Sought shall terminate on December 31, 2025.

Furthermore, the decision of the principal regulator under the Legislation is that the Confidentiality Relief is granted.

“Erin O’Donovan”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2024/0185

B.3.6 AXA 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.

[Original text in French]

September 25, 2024

SEDAR+ filing No: 06153720

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

AND

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

AND

IN THE MATTER OF
AXA S.A.
(the "Filer")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for:

1. an exemption from the prospectus requirement (the **Prospectus Relief**) so that such requirement does not apply to:

   a) trades of:

      i) units (the **Principal Classic Units**) of a compartment named AXA Shareplan Direct Global (the **Principal Classic Compartment**), a compartment 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 Shareplan AXA Direct Global (the **Fund**);

      ii) units (the **2024 Classic Units)** of a temporary compartment named AXA Actions Relais Global 2024 (the **2024 Classic Compartment**), a compartment of the Fund;

      iii) units (together with 2024 Classic Units, the **Temporary Classic Units**, and together with the Principal Classic Units, the **Classic Units**) of future temporary compartments of the Fund organized in the same

manner as the 2024 Classic Compartment established for Subsequent Employee Offerings (as defined below) (together with the 2024 Classic Compartment, the **Temporary Classic Compartments**, and together with the Principal Classic Compartment, the **Classic Compartments**);

iv) units (the **2024 Leveraged Units**) of a compartment named AXA Plan 2024 Global (the **2024 Leveraged Compartment**), a compartment of the Fund;

v) units (together with the 2024 Leveraged Units, the **Leveraged Units**, and together with the Classic Units, the **Units**) of future compartments of the Fund organized in the same manner as the 2024 Leveraged Compartment (together with the 2024 Leveraged Compartment, the **Leveraged Compartments**, and together with the Classic Compartments, the **Compartments**),

made pursuant to the Employee Offering (as defined below) to or with Qualifying Employees (as defined below) resident in the Jurisdictions, Alberta, and British Columbia (collectively, the **Canadian Employees**, and together with Canadian Employees who subscribe for Units, the **Canadian Participants**);

b) trades of ordinary shares of the Filer (the **Shares**) by the Compartments to or with Canadian Participants upon the redemption of Units as requested by Canadian Participants;

c) trades of Principal Classic Units made pursuant to an Employee Offering to or with holders of Leveraged Units upon the transfer of the Canadian Participants' assets in the relevant Leveraged Compartment to the Principal Classic Compartment at the end of the applicable Lock-Up Period (as defined below);

2. an exemption from the dealer registration requirement (together with the Prospectus Relief, the **Exemption Sought**) so that such requirement does not apply to the Filer and its Local Related Entities (as defined below), the Fund, the Compartments and AXA Investment Managers Paris (the **Management Company**) in respect of:

a) trades in Units made pursuant to the Employee Offering to or with Canadian Employees not resident in Ontario;

b) trades in Shares by the Compartments to or with Canadian Participants upon the redemption of Units as requested by Canadian Participants; and

c) trades in Principal Classic Units made pursuant to the Employee Offering to or with holders of Leveraged Units upon the transfer of the Canadian Participants' assets in the relevant Leveraged Compartment to the Principal Classic Compartment at the end of the applicable Lock-Up Period.

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

a) the Autorité des marchés financiers is the principal regulator for this application;

b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting Passport System*, CQLR, c. V-1.1, r. 1 (**Regulation 11-102**) is intended to be relied upon in Alberta and British Columbia; and

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, CQLR, c. V-1.1, r. 3, Regulation 11-102 and *Regulation 45-106 respecting Prospectus Exemptions*, CQLR, c. V-1.1, r. 21 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 and is not in default of securities legislation of any jurisdiction of Canada. The head office of the Filer is located in France and its Shares are listed on Euronext Paris.

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 (the **Local Related Entities**, and together with the Filer and other related entities of the Filer, the **AXA 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 AXA Group in Canada is located in Québec.

3. As of the date hereof, Local Related Entities include AXA Assistance Canada Inc., XL Services Canada Ltd., Matrix Risk Consultants Inc., XL Speciality Insurance Company, XL Reinsurance America Inc. and Catlin Canada Inc. For any Subsequent Employee Offering, the list of Local Related Entities may change.

4. As of the date hereof and after giving effect to an Employee Offering, the Filer is and will be a "foreign issuer" as such term is defined in section 2.15(1) of *Regulation 45-102 respecting Resale of Securities*, CQLR, c. V-1.1, r. 20 (**Regulation 45-102**), section 2.8(1) of *Ontario Securities Commission Rule 72-503 - Distributions Outside Canada* (**OSC Rule 72-503**) and section 11 (1) of *Alberta Securities Commission Rule 72-501 - Distributions to Purchasers Outside Alberta* (**Alberta Rule 72-501**).

5. Each Employee Offering is comprised of two subscription options:

   a) an offering of Shares to be subscribed through the relevant Temporary Classic Compartment, which will be merged with the Principal Classic Compartment following the completion of the Employee Offering (the **Classic Plan**);

   b) an offering of Shares to be subscribed through the relevant Leveraged Compartment (the **Leveraged Plan**).

6. Only persons who are employees of an entity forming part of the AXA Group during the subscription period pursuant to the Employee Offering and who meet other employment criteria (the **Qualifying Employees**) may participate in the relevant Employee Offering.

7. The Principal Classic Compartment was established for the purpose of implementing the employee offerings generally. The 2024 Classic Compartment and the 2024 Leveraged Compartment were established for the purpose of implementing the 2024 Employee Offering. There is no intention for any of the 2024 Classic Compartment, the 2024 Leveraged Compartment, the Principal Classic Compartment or the Fund to become a reporting issuer under the securities legislation of any jurisdiction of Canada. There is no intention for any Temporary Classic Compartment or Leveraged Compartment that will be established for the purpose of implementing Subsequent Employee Offerings to become a reporting issuer under the securities legislation of any jurisdiction of Canada.

8. The 2024 Classic Compartment, the 2024 Leveraged Compartment and the Principal Classic Compartment are registered with, and approved by, the Autorité des marchés financiers in France (the **French AMF**).

9. It is expected that each Temporary Classic Compartment and Leveraged Compartment established for Subsequent Employee Offerings will be an FCPE and will be registered with, and approved by, the French AMF.

10. The total amount that may be invested by a Canadian Employee in the Employee Offering cannot exceed 25% of his or her estimated gross annual compensation for the relevant calendar year. For the purposes of calculating these limits, a Canadian Participant's maximum investment in a Leveraged Compartment will include the additional Bank Contribution. Therefore, the total amount invested by a Canadian Participant in the Leveraged Plan cannot exceed 2.5% of his or her estimated gross annual compensation.

11. Under the Classic Plan, each Employee Offering will be made as follows:

   a) Canadian Participants will subscribe for the relevant Temporary Classic Units, and the relevant Temporary Classic Compartment will then subscribe for Shares on behalf of Canadian Participants using the Canadian Participants' contributions.

   b) The subscription price will consist of the price calculated as the arithmetical average of the daily volume weighted average price of the Shares (expressed in euros) on Euronext Paris for the 20 consecutive trading days preceding the date of fixing of the subscription price by the Chief Executive Officer or Deputy Chief Executive Officer, commissioned by the Filer's Board of Directors (the **Reference Price**), less a specified discount to the Reference Price (e.g. 20% for the 2024 Employee Offering).

   c) Following the completion of the Employee Offering, the relevant Temporary Classic Compartment will be merged with the Principal Classic Compartment (subject to the approval of the supervisory board of the Fund and the French AMF). The Temporary Classic Units held by Canadian Participants will be replaced with Principal Classic Units on a pro rata basis and the Shares subscribed for will be held in the Principal Classic Compartment (such transaction being referred to as the **Merger**). The Merger is made by the transfer of all assets held in the Temporary Classic Compartment into the Principal Classic Compartment and the liquidation of the Temporary Classic Compartments after such transfer.

d) The Classic Units acquired under the Classic Plan 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 (such as death, disability or termination of employment).

e) Any dividends paid on the Shares held in the Classic Compartment will be contributed to the Classic Compartment and used to purchase additional Shares. New Classic Units will be issued to the Canadian Participants in order to reflect this reinvestment.

f) At the end of the relevant Lock-Up Period, a Canadian Participant may: (i) request the redemption of his or her Classic Units in consideration for the underlying Shares, or a cash payment equal to the then market value of the Shares; or (i) continue to hold his or her Classic Units 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 fair market value of the Shares.

g) 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 (an **Early Redemption**), a Canadian Participant may request the redemption of his or her Classic Units in consideration for the underlying Shares or a cash payment equal to the then market value of the underlying Shares;

12. Under the Leveraged Plan, each Employee Offering will be made as follows:

a) Canadian Participants will subscribe for the relevant Leveraged Units, and the relevant Leveraged Compartment will then subscribe for Shares on behalf of Canadian Participants using the Employee Contribution (as described below) and certain financing made available by Natixis (the **Bank**), a bank governed by the laws of France. For any Subsequent Employee Offering, the Bank may change. In the event of such a change, the successor to the Bank will remain a large French commercial bank subject to French banking legislation.

b) The subscription price (expressed in euros) will consist of the Reference Price, less a specified discount determined by the Bank (e.g. 6.40% for the 2024 Employee Offering).

c) Participation in the Leveraged Plan represents a potential opportunity for Qualifying Employees to obtain higher gains than would be available through participation in the Classic Plan by virtue of the Qualifying Employee's indirect participation in a financing arrangement involving a swap agreement (the **Swap Agreement**) between the relevant Leveraged Compartment and the Bank. In economic terms, the Swap Agreement involves the following exchange of payments: for each Share which may be subscribed for by a Qualifying Employee's contribution (expressed in euros) (the **Employee Contribution**) under the Leveraged Plan at the Reference Price less the specified discount, the Bank will finance the subscription of nine additional Shares to be subscribed for by the relevant Leveraged Compartment (on behalf of the Canadian Participant) (the **Bank Contribution**).

d) Each Canadian Participant will receive Leveraged Units in the relevant Leveraged Compartment entitling him or her to the euro amount of the Employee Contribution and the Shares subscribed for on his or her behalf with the Bank Contribution.

e) Under the terms of the Swap Agreement, the relevant Leveraged Compartment will remit to the Bank an amount equal to the net amount of any dividends paid on the Shares held in the Leveraged Compartment during the Lock-up Period.

f) The Leveraged Units acquired by Canadian Participants will be subject to the Lock-Up Period, subject to certain exceptions provided for under French law and the Employee Offering (such as death, disability or termination of employment).

g) At the end of the Lock-Up Period or in the event of an Early Redemption, a Canadian Participant in the Leveraged Plan will, pursuant to the terms and conditions of the guarantee contained in the Swap Agreement, be entitled to receive 100% of his or her Employee Contribution. The Management Company is permitted to cancel the Swap Agreement (which will have the effect of cancelling the guarantee) in certain strictly defined conditions where it is in the best interests of the unitholders. In the event that the Management Company cancelled the Swap Agreement and this was not in the best interests of the unitholders, then such unitholders would have a right of action under French law against the Management Company.

h) At the end of the Lock-Up Period, the Swap Agreement will terminate after the final swap payments are made. A Canadian Participant may then request the redemption of his or her Leveraged Units in consideration for cash or Shares with a value equivalent to: i) the Canadian Participant's Employee Contribution; and ii) the Canadian Participant's portion of the appreciation amount, if any (the **Redemption Formula**).

i) If a Canadian Participant does not request the redemption of his or her Leveraged Units at the end of the Lock-Up Period, his or her investment in the Leveraged Compartment will be transferred to the Principal Classic Compartment upon the decision of the supervisory board of the Leveraged Compartment and Principal Classic Compartment (subject to the approval of the French AMF). New Principal Classic Units will be issued to such Canadian Participants in recognition of the assets transferred to the Principal Classic Compartment. The Canadian Participants will be entitled to request the redemption of the new Principal Classic Units whenever they wish. However, following a transfer to the Principal Classic Compartment, the Employee Contribution and the appreciation amount will no longer be covered by the Swap Agreement (including the Bank's guarantee contained therein).

j) In the event of an Early Redemption and meeting the applicable criteria, a Canadian Participant may request the redemption of Leveraged Units using the Redemption Formula. The measurement of the increase, if any, with respect to the Reference Price, will be carried out in accordance with similar rules to those applied to redemption at the end of the Lock-up Period, but it will rather be measured using values of the Shares at the time of the Early Redemption instead.

k) Under no circumstances will a Canadian Participant in the Leveraged Plan be liable to any of the Leveraged Compartment, the Bank or the Filer for any amounts in excess of his or her Employee Contribution under the Leveraged Plan.

l) For Canadian federal income tax purposes, a Canadian Participant in a Leveraged Plan should be deemed to receive all dividends paid on the Shares financed by the Employee Contribution and the Bank Contribution at the time such dividends are paid to the relevant Leveraged Compartment, notwithstanding the actual non-receipt of the dividends by the Canadian Participants.

m) The declaration of dividends on the Shares (in the ordinary course or otherwise) is determined by the Board of Directors of the Filer and approved by the shareholders of the Filer. The Filer has not made any commitment to the Bank as to any minimum payment of dividends during the term of the Lock-Up Period.

n) Considering that, at the time of the initial investment decision relating to participation in a Leveraged Plan, Canadian Participants will be unable to quantify their potential income tax liability resulting from such participation, the Filer or its Local Related Entities will indemnify each Canadian Participant in the Leveraged Plan for the following costs: tax costs for the Canadian Participants associated with the payment of dividends in excess of a specified amount in euros per calendar year per Share during the Lock-Up Period, such that, in all cases, a Canadian Participant will, at the time of the original investment decision, be able to determine his or her maximum tax liability in connection with dividends received by the relevant Leveraged Compartment on his or her behalf under the Leveraged Plan.

o) At the time the relevant Leveraged Compartment's obligations under the Swap Agreement are settled, the Canadian Participant will realize a capital gain (or capital loss) by virtue of having participated in the Swap Agreement to the extent that amounts received by the relevant Leveraged Compartment, on behalf of the Canadian Participant, from the Bank exceed (or are less than) amounts paid by such Leveraged Compartment, on behalf of the Canadian Participant to the Bank. Any dividend amounts paid to the Bank under the Swap Agreement will serve to reduce the amount of any capital gain (or increase the amount of any capital loss) that the Canadian Participant would have otherwise realized (or lost). Capital losses (gains) realized by a Canadian Participant may generally be offset against (reduced by) any capital gains (losses) realized by the Canadian Participant on a disposition of the Shares, in accordance with the rules and conditions under the Income Tax Act (Canada) or comparable provincial legislation (as applicable).

13. The 2024 Employee Offering does not include a matching contribution of Shares. The AXA group may decide to grant a matching contribution to Canadian Participants in Subsequent Employee Offerings, with the terms of such contribution to be determined at a later date, as applicable.

14. Under French law, an FCPE is a limited liability entity. Each Compartment's portfolio will consist almost exclusively of Shares, although the Leveraged Compartment's portfolio will also include rights and associated obligations under the Swap Agreement. The Compartments may also hold cash or cash equivalents pending investments in Shares and for the purposes of facilitating Unit redemptions.

15. The Compartments are 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. For any Subsequent Employee Offering, the Management Company may change. In the event of such a change, the successor to the Management Company will comply with the terms and conditions described in this paragraph.

16. The Management Company's portfolio management activities in connection with the Employee Offerings and the Compartments are limited to subscribing for Shares of the Filer, selling such Shares as necessary in order to fund redemption requests, investing available cash in cash equivalents and such activities as may be necessary to give effect to the Swap Agreement.

17. The Management Company is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of the Compartments. The Management Company's activities do not affect the underlying value of the Shares.

18. None of the entities forming part of the AXA Group, the Compartments 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.

19. None of the entities forming part of the AXA Group, the Compartments or the Management Company is in default of securities legislation of any jurisdiction of Canada.

20. Shares issued pursuant to an Employee Offering will be deposited in the relevant Compartment's accounts with BNP Paribas SA (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 relevant Compartment to exercise the rights relating to the securities held in their portfolio.

21. 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 FCPE or for any self-dealing or negligence.

22. Participation in the Employee Offering is voluntary, and the Canadian Employees will not be induced to participate in the Employee Offering by expectation of employment or continued employment.

23. The Unit value will be calculated and reported to the French AMF on a regular basis. The value of Units will increase or decrease reflecting the increase or decrease of the value of the underlying Shares.

24. The Units and Shares are not currently listed for trading on any stock exchange in Canada and there is no intention to have them so listed.

25. All management charges relating to the Compartments will be paid from the assets of the relevant Compartment or by the Filer, as provided in the rules of the relevant Compartment.

26. The Filer will retain a securities dealer registered as a broker/investment dealer under the securities legislation of Ontario to provide advisory services to Canadian Employees resident in Ontario who express an interest in an Employee Offering and to help make a determination, in accordance with industry practices, as to whether an investment in an Employee Offering is suitable for each such Canadian Employee based on his or her particular financial circumstances.

27. Canadian Participants will receive 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, a description of the relevant Canadian income tax consequences of subscribing for and holding Units and requesting the redemption of such Units at the end of the applicable Lock-Up Period. Canadian Participants will receive a Key Investor Information Document (KID) approved by the French AMF for each Compartment describing its main characteristics and a reservation, revocation and subscription form. The information package for Canadian Participants subscribing to Leveraged Units will include all the necessary information for general inquiry and support with respect to the Leveraged Plan and will also include a risk statement which will describe certain risks associated with an investment in Leveraged Units pursuant to the Leveraged Plan. Canadian Participants may consult the Filer's Annual Report (*Document d'enregistrement universel*) filed with the French AMF in respect of the Shares as well as a copy of the relevant Compartment's rules. Canadian Participants will also have access to the continuous disclosure materials relating to the Filer that are provided to its shareholders generally. Canadian Participants will receive an initial statement of their holdings, together with an updated statement at least once per year.

28. As of July 3, 2024, there are approximately 272 Canadian Employees, with the greatest number resident in Ontario (135), and the remainder residing in Québec (120), Alberta (12) and British Columbia (5), who represent in the aggregate less than 1% of the number of Qualifying Employees of the AXA Group worldwide.

Decision

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

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

1. with respect to the 2024 Employee Offering, the Prospectus Requirement will apply to the first trade in the relevant 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 Regulation 45-102, section 2.8(1) of OSC Rule 72-503 and section 11(1) of ASC Rule 72-501; and

    c) the first trade is made:

        i) through an exchange, or a market, outside of Canada, or

        ii) to a person outside of Canada.

2. for any Subsequent Employee Offering completed within five years from the date of this decision:

    a) the representations other than those in paragraphs 3, 12a), 20 and 28 remain true and correct in respect of a Subsequent Employee Offering; and

    b) the conditions set out in paragraph 1 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

3. in the Provinces of Ontario and Alberta, the Prospectus Exemption 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.

“Benoît Gascon”
Directeur principal du financement des sociétés
Autorité des marchés financiers

OSC File #: 2024/0396

B.3.7 BMO Investments Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to mutual dealer from requirement in subsection 3.2.01 of NI 81-101 to deliver the most recently filed fund facts document before the dealer accepts an instruction from a purchaser to purchase F-Series and A-Series securities of mutual funds under a Fee-Based Program – Trailing commission paid by investment fund manager to dealer in respect of A-Series, while service fee paid directly by investor to dealer in respect of F-Series – Following a Participant's enrollment in the Fee-Based Program, the Filer, as mutual fund dealer, will switch all A-Series securities of the Funds held in the Participant's accounts to the corresponding F-Series securities of the same Fund provided the Participant's combined assets meet or exceed a minimum threshold – Participant in Fee-Based Program will pay equivalent or lower total fees than total fees associated with owning the A-Series securities – If minimum threshold is not maintained, Participant may be un-enrolled by the Filer from the Fee-Based Program, subject to receiving a Threshold Notice, and have F-Series securities switched to corresponding A-Series securities – Filer will not deliver the Fund Facts to investors in connection with the purchase of fund securities made pursuant to a Program Switch – Relief granted from the fund facts delivery requirement subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 3.2.01 and 6.1.

September 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
BMO INVESTMENTS INC.
(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**) exempting it from the requirement in subsection 3.2.01 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) to deliver or send the most recently filed fund facts document (**Fund Facts**) before the Filer accepts an instruction from a purchaser (the **Fund Facts Delivery Requirement**) to purchase F-Series (as defined below) and A-Series (as defined below) securities of any mutual fund managed by the Filer or an affiliate of the Filer (each, a **Fund** and collectively, the **Funds**) subject to the requirements of National Instrument 81-102 *Investment Funds* (**NI 81-102**), that are made pursuant to the Fee-Based Program (as defined below) (the **Exemption Sought**).

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

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

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

Representations

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

The Filer

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

2. The Filer is registered as a mutual fund dealer in each of the Jurisdictions, and as an investment fund manager in each of Ontario, Québec and Newfoundland and Labrador. The Filer is also a member of the Canadian Investment Regulatory Organization.

3. Securities of the Funds are, or will be, distributed through the Filer.

4. The Filer only offers for sale securities of Funds that are managed by it or by an affiliate. However, the Filer will accept transfers of securities of mutual funds managed by third parties into accounts with the Filer (**Filer Accounts**).

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

The Funds

6. Each Fund is, or will be, an open-end mutual fund created under the laws of one of the Jurisdictions or the laws of Canada.

7. Each Fund is, or will be, a reporting issuer under the laws of the Jurisdictions and subject to NI 81-102.

8. Securities of the Funds are, or will be, qualified for distribution pursuant to a simplified prospectus and Fund Facts that have been, or will be, prepared and filed in accordance with NI 81-101.

9. The Funds currently offer, or will in the future offer, various classes and series in respect of which a trailing commission (**Trailing Commission**) is paid by the Fund's manager to the Filer (**A-Series**) and various classes and series designed to be held in a fee-based account that do not pay a Trailing Commission to the Filer (**F-Series**).

Fee-Based Program

10. The Filer proposes to implement a program (the **Fee-Based Program**) whereby investors holding a minimum threshold value (the **Minimum Threshold**) of securities in Filer Accounts, either alone or together with other members of their Household (defined below) will pay lower total fund management fees and ongoing dealer compensation costs (collectively, **Total Fees**) if certain conditions are met, as described below.

11. Investors will have the option to enroll in the Fee-Based Program (**Participants**), individually or as part of a group with certain family members and corporations for which they have signing authority (a **Household**), if the value of the combined total assets held in all Filer Accounts belonging to the investor and, if applicable, other members of the investor's Household (**Combined Assets**), meets or exceeds the Minimum Threshold.

12. Shortly following enrollment, the Filer will switch all A-Series securities of the Funds held in Filer Accounts by Participants to the corresponding F-Series securities of the same Fund (**Lower Fee Switches**).

13. As a result of the Lower Fee Switches, Participants will no longer hold A-Series securities in their Filer Accounts, and the Trailing Commission that would have been paid to the Filer in respect of those A-Series securities will no longer be payable. Instead, each Participant will pay a fee to the Filer (**Service Fee**) that is lower than the value of the Trailing Commission that would otherwise be payable to the Filer in respect of the A-Series securities of the Funds.

14. Non-mutual fund investments, investments in a series of a Fund other than A-Series, and investments in funds managed by third parties may be held in Filer Accounts, and will be included by the Filer in determining the value of a Participant's Combined Assets, but are not eligible to be switched to F-Series securities as part of a Lower Fee Switch.

15. As part of the Fee-Based Program, the Filer will establish tiers (**Asset Tiers**) whereby the size of the Service Fee paid by a Participant will be contingent on the total value of its Combined Assets. Each Asset Tier will consist of a range of values, and each progressively higher Asset Tier above the Minimum Threshold will feature a lower Service Fee.

16. The Asset Tier applicable to a Participant's Combined Assets and resultant Service Fee paid by the Participant may fluctuate as the value of the Participant's Combined Assets increases or decreases. Fluctuations may occur because of purchases or redemptions that change the amount of the Combined Assets, or because of changes in the market value of the Funds and other assets held in the Filer Accounts.

17. As long as the value of a Participant's Combined Assets remains at or above the Minimum Threshold, the Participant will pay a Service Fee that is lower than the value of the Trailing Commission that would otherwise be payable on the A-Series securities of the Participant's Funds. If the value of the Participant's Combined Assets is less than the Minimum Threshold, the Service Fee will be equal to 100% of the Trailing Commission that would otherwise be payable on the A-Series securities of the Funds.

18. At the time of enrollment in the Fee-Based Program, each Participant will instruct the Filer to effect a Lower Fee Switch of any A-Series securities that they later come to hold in a Filer Account, including any new Filer Account opened by the Participant while enrolled in the Fee-Based Program, into F-Series securities of the relevant Fund.

19. The Filer will periodically process Service Fee payments for Filer Accounts by redeeming F-Series securities of a Fund held in the applicable account (a **Fee Redemption**).

20. Other than the Service Fee, Participants will not be subject to any additional fees due to their participation in the Fee-Based Program, but will continue to be subject to the same fees and expenses associated with any fee-based dealer account, such as transfers out and other account-level and miscellaneous fees, which are unrelated to the Fee-Based Program.

Enrollment and Un-Enrollment

21. From time to time, the Filer will identify investors who are eligible for the Fee-Based Program due to the value of the assets in their Filer Accounts, and may notify such investors of the opportunity to enroll in the Fee-Based Program.

22. Prior to enrollment in the Fee-Based Program, each investor must sign an agreement (**Enrollment Agreement**) acknowledging the terms and conditions applicable to the Fee-Based Program, including the details of the Program Switches (defined below) and the Service Fee. The Enrollment Agreement will further set out the particulars of the Fee-Based Program and explain in plain language how investors may access the lower Total Fees associated with the different Asset Tiers. The Enrollment Agreement will also contain explicit instructions to the Filer to perform the Program Switches.

23. In addition to signing an Enrollment Agreement, all investors that wish to enroll in the Fee-Based Program as part of a Household must consent to joining the Household and having the assets in their Filer Accounts included in the Filer's calculation of the Household's Combined Assets.

24. Participation in the Fee-Based Program will continue until a Participant is un-enrolled. Participants may voluntarily un-enroll from the Fee-Based Program at any time. Participants may also be un-enrolled from the Fee-Based Program by the Filer if the value of their Combined Assets drops below the Minimum Threshold, among other reasons.

25. If the value of a Participant's Combined Assets drops below the Minimum Threshold (other than solely due to a decline in market value or a Fee Redemption), the Participant will receive a notice (the **Threshold Notice**) informing them that if they are unable to restore the value of their Combined Assets to at least the Minimum Threshold within a given period of time, the Filer may un-enroll them from the Program.

26. Participants will not be un-enrolled from the Fee-Based Program solely due to a decline in the market value of their Combined Assets. However, if the total value of a Participant's Combined Assets drops below the Minimum Threshold following a redemption or transfer of securities initiated by the Participant, the Participant will no longer be eligible to remain in the Fee-Based Program.

27. To effect the un-enrollment, the Filer will switch all of the Participant's F-Series securities of the Funds held in Filer Accounts to the corresponding A-Series securities of the same Fund (**Higher Fee Switches**, and together with Lower Fee Switches, **Program Switches**).

Program Switches

28. Investors subject to a Program Switch will continue to hold securities of the same Fund following the switch, with the same underlying pool of assets, the same investment objectives and investment strategies and the same valuation procedures and continue to have the same rights as securityholders as they did prior to the Program Switch, except for the Series Differences (as defined below).

29. The only material difference (the **Series Difference**) between A-Series and F-Series securities of a Fund subject to a Program Switch is that the management fees for F-Series securities are equivalent to or lower than the respective management fees for A-Series securities of the same Fund due at least in part to F-Series securities not paying a Trailing Commission or other embedded compensation.

30. No Funds held in Filer Accounts are subject to deferred sales charges.

31. There are no sales charges, switch fees, short term trading fees or other fees payable by the investor upon a Program Switch.

32. Implementation of the Program Switches will have no adverse tax consequences on investors under current Canadian tax legislation.

Fund Facts Delivery Requirement

33. Each Program Switch will entail either (a) a redemption of A-Series securities immediately followed by a purchase of the corresponding F-Series securities, or (b) a redemption of F-Series securities immediately followed by a purchase of the corresponding A-Series securities; and each Program Switch will be a "distribution" under Canadian securities legislation, which triggers the Fund Facts Delivery Requirement.

34. Pursuant to the Fund Facts Delivery Requirement, a dealer is required to deliver the most recently filed Fund Facts of a series of a mutual fund to an investor before the dealer accepts an instruction from the investor for the purchase of securities of that series of the mutual fund.

35. While the Filer will initiate each trade done as part of a Program Switch, the Filer does not propose to deliver the Fund Facts to investors in connection with the purchase of securities made pursuant to a Program Switch for the following reasons:

    a. The Service Fee charged to a Participant cannot exceed the A-Series Trailing Commission it replaces, meaning that a Program Switch will always result in a Participant paying equivalent or lower Total Fees than the Total Fees associated with owning the A-Series securities for which they initially subscribed;

    b. Program Switches will only involve securities of the same Fund with the same underlying pool of assets, and since those Participants who already held A-Series securities of a Fund at the time they enrolled in the Fee-Based Program would have received the Fund Facts disclosing the higher Total Fees applicable to those A-Series securities, the Participant would derive little benefit from receiving a further Fund Facts for each Program Switch;

    c. since Participants must sign an Enrollment Agreement prior to enrollment in the Fee-Based Program, Participants will be aware of the proposed Program Switches and would derive little benefit from receiving a further Fund Facts for each Program Switch;

    d. before un-enrolling a Participant from the Fee-Based Program and effecting a Higher Fee Switch, the Filer will send a Threshold Notice or other notice which informs the Participant (i) that un-enrollment will result in the investor paying equivalent or higher Total Fees associated with A-Series securities and (ii) how to obtain the most recently filed A-Series Fund Facts at no cost; and

    e. the Program Switch process is administrative in nature, and since many Participants may hold securities of several different Funds in Filer Accounts, which Funds will all be converted at once at the time of enrollment in the Fee-Based Program, the Program Switch process is the only practical way to achieve the required result of switching Participants between A-Series and F-Series of all Funds they hold in Filer Accounts in order to allow them to benefit from lower Total Fees.

36. The Filer will deliver or will arrange for the delivery of trade confirmations to Participants in connection with each trade done further to a Program Switch. Furthermore, details of the changes in series of securities held will be reflected in the account statements sent to Participants for the quarter in which the change occurred.

37. The Filer will provide Fund Facts to Participants for all first purchases of new Funds, regardless of series purchased, at or after the time of enrollment in the Fee-Based Program. The Fund Facts delivery process for first purchases of new Funds will not differ under the Fee-Based Program and will comply with the Fund Facts Delivery Requirement

38. The Filer will discuss the terms and conditions of the Fee-Based Program with each investor prior to enrolling the investor into the Fee-Based Program.

39. Annual statements for Participants will include a statement reminding them that they can request the most recently filed Fund Facts for any series of securities that they currently hold in their Filer Accounts.

40. In the absence of the Exemption Sought, the Filer may not carry out the Program Switches without complying with the Fund Facts Delivery Requirement.

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 Lower Fee Switch into F-Series securities of a Fund always results in a Participant paying equivalent or lower Total Fees than the Total Fees associated with owning the corresponding A-Series securities of the Fund;
2. Before an investor becomes a Participant in the Fee-Based Program, the Filer enters into an Enrollment Agreement with the investor which informs the investor of the following:

    a. the A-Series securities held in a Participant's Filer Accounts will be switched to F-Series securities of the same Fund upon enrollment in the Fee-Based Program;

    b. any A-Series securities a Participant comes to hold in new or existing Filer Accounts will be switched into F-Series securities of the same Fund for as long as they are enrolled in the Fee-Based Program;

    c. other than the Series Difference, there are no other material differences between A-Series and F-Series securities of a Fund subject to a Program Switch;

    d. the extent to which the Service Fees that apply at each Asset Tier under the Fee-Based Program are lower than the Trailing Commission payable on the corresponding A-Series securities of the Fund;

    e. Participants will not receive Fund Facts when a Program Switch occurs, but:

        i. they may request the most recently filed Fund Facts for the series purchased as part of a Program Switch by calling or by sending a request via email to a representative of the Filer;

        ii. if requested, the most recently filed Fund Facts will be sent or delivered to them at no cost;

        iii. the most recently filed Fund Facts may be found on www.sedarplus.com or the website of the Filer; and

        iv. they will not have the right to withdraw from an agreement of purchase and sale in respect of a purchase of A-Series or F-Series securities made pursuant to a Program Switch, but they will have the right of action in the event the simplified prospectus and any Fund Facts or other document incorporated by reference into a simplified prospectus for the relevant series contains a misrepresentation;

    f. a Participant's F-Series securities held in Filer Accounts will be switched to A-Series securities upon un-enrollment from the Fee-Based Program; and

    g. a Participant may voluntarily un-enroll from the Fee-Based Program at any time, and may also be un-enrolled by the Filer if the value of the Participant's Combined Assets drops below the Minimum Threshold (other than solely due to a decline in market value or a Fee Redemption) subject to first receiving the Threshold Notice.

3. Before effecting a Higher Fee Switch and un-enrolling a Participant from the Fee-Based Program where the value of the Participant's Combined Assets drops below the Minimum Threshold (other than solely due to a decline in market value or a Fee Redemption), the Filer sends the Participant a Threshold Notice which notifies the Participant of the following:

    a. that, upon being unenrolled from the Fee-Based Program, their F-Series securities will be switched for A-Series securities of the same Fund, resulting in the investor paying equivalent or higher Total Fees associated with A-Series securities, and

    b. they will not receive the Fund Facts when they are switched to the A-Series of a Fund further to un-enrollment from the Fee-Based Program, but:

        i. they may request the most recently filed Fund Facts for the A-Series by calling or by sending a request via email to a representative of the Filer;

        ii. if requested, the most recently filed A-Series Fund Facts will be sent or delivered to them at no cost;

iii. the most recently filed A-Series Fund Facts may be found on www.sedarplus.com or the website of the Filer.

4. At least annually, the Filer notifies each Participant in writing of how to request the most recently filed Fund Facts for any series of securities of a Fund that they currently hold.

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

Application File #: 2023/0056

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
Lanesborough Real Estate Investment Trust	September 25, 2024	
VIP Entertainment Technologies Inc.	September 30, 2024	

B.4.2 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
THERE IS NOTHING TO REPORT THIS WEEK.		

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	
Perk Labs Inc.	April 4, 2024	
Organto Foods Inc.	May 8, 2024	
AI/ML Innovations Inc.	August 30, 2024	
AION THERAPEUTIC INC.	August 30, 2024	

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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:
Dynamic Active Bond ETF
Dynamic Active Corporate Bond ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Sept 23, 2024
NP 11-202 Preliminary Receipt dated Sept 24, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06186250

Issuer Name:
First Trust Vest SMID Rising Dividend Achievers Target Income ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Sept 25, 2024
NP 11-202 Preliminary Receipt dated Sept 26, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06186930

Issuer Name:
AGF Credit Opportunities Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated Sept 24, 2024
NP 11-202 Final Receipt dated Sept 25, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06143558

Issuer Name:
Guardian i³ Global Quality Growth ETF
Guardian i³ US Quality Growth Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated Sept 19, 2024
NP 11-202 Final Receipt dated Sep 24, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06133847

Issuer Name:
iProfile Active Allocation Private Pool I
iProfile Active Allocation Private Pool II
iProfile Active Allocation Private Pool III
iProfile Active Allocation Private Pool IV
iProfile Alternatives Private Pool
iProfile Canadian Dividend and Income Equity Private Pool
iProfile Canadian Equity Private Pool
iProfile Emerging Markets Private Pool
iProfile Enhanced Monthly Income Portfolio – Canadian Fixed Income Balanced
iProfile Enhanced Monthly Income Portfolio – Canadian Neutral Balanced
iProfile ETF Private Pool
iProfile Fixed Income Private Pool
iProfile International Equity Private Pool
iProfile Low Volatility Private Pool
iProfile Portfolio - Global Equity
iProfile Portfolio - Global Equity Balanced
iProfile Portfolio - Global Fixed Income Balanced
iProfile Portfolio - Global Neutral Balanced
iProfile U.S. Equity Private Pool
Principal Regulator – Manitoba
Type and Date:
Amendment #1 to Final Simplified Prospectus dated Sept 23, 2024
NP 11-202 Final Receipt dated Sept 27, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06135660

Issuer Name:
Scotia Canadian Bond Index Tracker ETF
Scotia Canadian Large Cap Equity Index Tracker ETF
Scotia Emerging Markets Equity Index Tracker ETF
Scotia International Equity Index Tracker ETF
Scotia Responsible Investing Canadian Bond Index ETF
Scotia Responsible Investing Canadian Equity Index ETF
Scotia Responsible Investing International Equity Index ETF
Scotia Responsible Investing U.S. Equity Index ETF
Scotia U.S. Equity Index Tracker ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated Sept 27, 2024
NP 11-202 Final Receipt dated Sept 27, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06169842

Issuer Name:
Counsel Enhanced Global Equity
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Sept 26, 2024
NP 11-202 Preliminary Receipt dated Sept 26, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing # 06187221

Issuer Name:
Picton Mahoney Fortified Investment Grade Alternative Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Sept 26, 2024
NP 11-202 Preliminary Receipt dated Sept 27, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing # 06187694

Issuer Name:
Mackenzie All-Equity ETF Portfolio
Mackenzie Alternative Enhanced Yield Fund
Mackenzie Balanced ETF Portfolio
Mackenzie Betterworld Canadian Equity Fund
Mackenzie Betterworld Global Equity Fund
Mackenzie Bluewater Canadian Growth Balanced Fund
Mackenzie Bluewater Canadian Growth Fund
Mackenzie Bluewater Global Growth Balanced Fund
Mackenzie Bluewater Global Growth Fund
Mackenzie Bluewater Next Gen Growth Fund
Mackenzie Bluewater North American Balanced Fund
Mackenzie Bluewater North American Equity Fund
Mackenzie Bluewater US Growth Fund
Mackenzie Canadian Bond Fund
Mackenzie Canadian Dividend Fund
Mackenzie Canadian Equity Fund
Mackenzie Canadian Money Market Fund
Mackenzie Canadian Short Term Income Fund
Mackenzie Canadian Small Cap Fund
Mackenzie ChinaAMC All China Bond Fund
Mackenzie ChinaAMC All China Equity Fund
Mackenzie ChinaAMC Multi-Asset Fund
Mackenzie Conservative ETF Portfolio
Mackenzie Conservative Income ETF Portfolio
Mackenzie Corporate Bond Fund
Mackenzie Corporate Knights Global 100 Index Fund
Mackenzie Cundill Canadian Balanced Fund
Mackenzie Cundill Canadian Security Fund
Mackenzie Cundill Value Fund
Mackenzie Diversified Alternatives Fund
Mackenzie Diversified Growth Fund (formerly Mackenzie Maximum Diversification Global Multi-Asset Fund)
Mackenzie Emerging Markets ex-China Equity Fund
Mackenzie Emerging Markets Fund
Mackenzie Floating Rate Income Fund
Mackenzie Global Dividend Fund
Mackenzie Global Equity Fund
Mackenzie Global Green Bond Fund
Mackenzie Global Macro Fund
Mackenzie Global Resource Fund
Mackenzie Global Small-Mid Cap Fund
Mackenzie Global Strategic Income Fund
Mackenzie Global Sustainable Balanced Fund
Mackenzie Global Sustainable Bond Fund
Mackenzie Global Tactical Bond Fund
Mackenzie Global Women's Leadership Fund
Mackenzie Gold Bullion Fund
Mackenzie Greenchip Global Environmental All Cap Fund
Mackenzie Greenchip Global Environmental Balanced Fund
Mackenzie Growth ETF Portfolio
Mackenzie Income Fund
Mackenzie Inflation-Focused Fund
Mackenzie International Dividend Fund
Mackenzie Ivy Canadian Balanced Fund
Mackenzie Ivy Canadian Fund
Mackenzie Ivy European Fund
Mackenzie Ivy Foreign Equity Currency Neutral Fund
Mackenzie Ivy Foreign Equity Fund
Mackenzie Ivy Global Balanced Fund
Mackenzie Ivy International Fund
Mackenzie Moderate Growth ETF Portfolio

Mackenzie Monthly Income Balanced Portfolio
Mackenzie Monthly Income Conservative Portfolio
Mackenzie Monthly Income Growth Portfolio
Mackenzie North American Corporate Bond Fund
Mackenzie Precious Metals Fund
Mackenzie Private Equity Replication Fund
Mackenzie Strategic Bond Fund
Mackenzie Strategic Income Fund
Mackenzie Tax-Managed Global Equity Fund
Mackenzie Unconstrained Fixed Income Fund
Mackenzie US All Cap Growth Fund
Mackenzie US Dividend Fund
Mackenzie US Mid Cap Opportunities Currency Neutral Fund
Mackenzie Shariah Global Equity Fund
Mackenzie US Mid Cap Opportunities Fund
Mackenzie US Small Cap Fund
Mackenzie US Small-Mid Cap Growth Currency Neutral Fund
Mackenzie US Small-Mid Cap Growth Fund
Mackenzie USD Global Dividend Fund
Mackenzie USD Global Strategic Income Fund
Mackenzie USD Greenchip Global Environmental All Cap Fund
Mackenzie USD Ultra Short Duration Income Fund
Mackenzie USD Unconstrained Fixed Income Fund
Mackenzie USD US Mid Cap Opportunities Fund
Mackenzie World Low Volatility Fund
Symmetry Balanced Portfolio
Symmetry Conservative Income Portfolio
Symmetry Conservative Portfolio
Symmetry Equity Portfolio
Symmetry Fixed Income Portfolio
Symmetry Growth Portfolio
Symmetry Moderate Growth Portfolio
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated Sept 27, 2024
NP 11-202 Final Receipt dated Sept 30, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing # 06162209, 06162227, 06162237, 06162356, 06162753

Issuer Name:
Blockchain Technologies ETF
Harvest Clean Energy ETF
Harvest Equal Weight Global Utilities Enhanced Income ETF
Harvest Equal Weight Global Utilities Income ETF
Harvest Global Gold Giants Index ETF
Harvest Healthcare Leaders Enhanced Income ETF
Harvest Premium Yield Treasury ETF
Harvest Tech Achievers Enhanced Income ETF
Harvest Travel & Leisure Index ETF
Harvest US Bank Leaders Income ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated Sept 23, 2024
NP 11-202 Final Receipt dated Sept 24, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06172392

Issuer Name:
MDPIM Canadian Equity Pool
MDPIM Dividend Pool
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated Sept 23, 2024
NP 11-202 Final Receipt dated Sept 25, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing # 06118161

Issuer Name:
MD Canadian Equity Fund
MD Dividend Growth Fund
MD Equity Fund
MD Precision Canadian Balanced Growth Fund
MD Precision Canadian Moderate Growth Fund
MDPIM Canadian Equity Pool
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated Sept 23, 2024
NP 11-202 Final Receipt dated Sept 25, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing # 06118147

Issuer Name:
IG Mackenzie Real Property Fund
Principal Regulator – Manitoba
Type and Date:
Amendment #1 to Final Simplified Prospectus dated Sept 23, 2024
NP 11-202 Final Receipt dated Sept 25, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing # 06135701

Issuer Name:
Maple Leaf Critical Minerals 2024-II Enhanced Flow-Through Limited Partnership - National Class
Maple Leaf Critical Minerals 2024-II Enhanced Flow-Through Limited Partnership - Quebec Class
Principal Regulator – British Columbia
Type and Date:
Final Long Form Prospectus dated Sept 25, 2024
NP 11-202 Final Receipt dated Sept 26, 2024
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing # 06172206 & 06172245

NON-INVESTMENT FUNDS

Issuer Name:
Plurilock Security Inc.
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated September 27, 2024
NP 11-202 Final Receipt dated September 27, 2024
Offering Price and Description:
$200,000,000 - Common Shares, Warrants, Subscription Receipts, Debt Securities, Units
Filing # 06169669

Issuer Name:
Atico Mining Corporation
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated September 27, 2024
NP 11-202 Final Receipt dated September 27, 2024
Offering Price and Description:
C$15,000,000 - Common Shares, Warrants, Subscription Receipts, Units, Debt Securities, Share Purchase Contracts
Filing # 06183223

Issuer Name:
Troilus Gold Corp.
Principal Regulator – Québec
Type and Date:
Preliminary Short Form Prospectus dated September 27, 2024
NP 11-202 Preliminary Receipt dated September 27, 2024
Offering Price and Description:
$28,029,000 - 57,150,000 Units, 10,900,000 Traditional Flow-Through Shares, 8,600,000 Québec Flow-Through Shares
Filing # 06186168

Issuer Name:
Lombard Street Capital Corp.
Principal Regulator – Ontario
Type and Date:
Final CPC Prospectus dated September 26, 2024
NP 11-202 Final Receipt dated September 27, 2024
Offering Price and Description:
Minimum Offering: $2,000,000 (20,000,000 Common Shares)
Maximum Offering: $3,000,000 (30,000,000 Common Shares)
Price: $0.10 per Common Share
Filing # 06158749

Issuer Name:
Arizona Sonoran Copper Company Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 27, 2024
NP 11-202 Preliminary Receipt dated September 27, 2024
Offering Price and Description:
$30,015,000
20,700,000 COMMON SHARES
$1.45 per Offered Share
Filing # 06186330

Issuer Name:
kneat.com, inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 27, 2024
NP 11-202 Preliminary Receipt dated September 27, 2024
Offering Price and Description:
7,368,500 Common Shares
$4.75 per Offered Share
Filing # 06186519

Issuer Name:
Highland Copper Company Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated September 27, 2024
NP 11-202 Preliminary Receipt dated September 27, 2024
Offering Price and Description:
$65,000,000 - Common Shares, Warrants, Subscription Receipts, Debt Securities, Units
Filing # 06187582

Issuer Name:
Verses AI Inc.
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated September 26, 2024
NP 11-202 Final Receipt dated September 26, 2024
Offering Price and Description:
US$100,000,000 - SUBORDINATE VOTING SHARES, WARRANTS, UNITS, SUBSCRIPTION RECEIPTS
Filing # 06186304

Issuer Name:
Silver47 Exploration Corp.
Principal Regulator – British Columbia
Type and Date:
Preliminary Long Form Prospectus dated September 25, 2024
NP 11-202 Preliminary Receipt dated September 25, 2024
Offering Price and Description:
6,297,393 Units on automatic exercise of 6,297,393 Special Warrants
Filing # 06175164

Issuer Name:
Aris Mining Corporation
Principal Regulator – British Columbia
Type and Date:
Final Shelf Prospectus dated September 25, 2024
NP 11-202 Final Receipt dated September 25, 2024
Offering Price and Description:
Common Shares, Debt Securities, Convertible Securities, Warrants, Subscription Receipts, Units
Filing # 06186659

Issuer Name:
Canary Gold Corp.
Principal Regulator – British Columbia
Type and Date:
Final Long Form Prospectus dated September 23, 2024
NP 11-202 Final Receipt dated September 24, 2024
Offering Price and Description:
Minimum $2,200,140
12,942,000 Units
$0.17 per Unit
Filing # 06151994

Issuer Name:
Super Copper Corp.
Principal Regulator – British Columbia
Type and Date:
Final Long Form Prospectus dated September 24, 2024
NP 11-202 Final Receipt dated September 24, 2024
Offering Price and Description:
3,625,000 Common Shares issuable upon deemed conversion of 3,625,000 outstanding Subscription Receipts
Filing # 06151973

Issuer Name:
Westgate Energy Inc.
Principal Regulator – Alberta
Type and Date:
Final Shelf Prospectus dated September 23, 2024
NP 11-202 Final Receipt dated September 24, 2024
Offering Price and Description:
Common Shares, Warrants, Debt Securities, Subscription Receipts, Units
$30,000,000
Filing # 06184672

Issuer Name:
Powermax Minerals Inc.
Principal Regulator – British Columbia
Type and Date:
Amendment to Preliminary Long Form Prospectus dated September 23, 2024
NP 11-202 Amendment Receipt dated September 24, 2024
Offering Price and Description:
2,534,000 Common Shares and 2,534,000 Warrants on Exercise of 2,534,000 Outstanding Special Warrants
Filing # 06150806

Issuer Name:
Atrium Mortgage Investment Corporation
Principal Regulator – Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 24, 2024
NP 11-202 Preliminary Receipt dated September 24, 2024
Offering Price and Description:
$25,018,250
2,185,000 Common Shares
$11.45 per Offered Share
Filing # 06185090

B.10
Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Cedar Leaf Capital Inc.	Investment Dealer	September 24, 2024
New Registration	Raisen Pacific Wealth Management Inc.	Exempt Market Dealer	September 25, 2024

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B.11
CIRO, Marketplaces, Clearing Agencies and Trade Repositories

B.11.3 Clearing Agencies

B.11.3.1 Japan Securities Clearing Corporation (JSCC) – Application for Exemptive Relief – Notice of Commission Order

JAPAN SECURITIES CLEARING CORPORATION
(JSCC)

APPLICATION FOR EXEMPTIVE RELIEF

NOTICE OF COMMISSION ORDER

On September 23, 2024, the Commission issued an order under section 147 of the *Securities Act* (Ontario) (**Act**) exempting JSCC from the requirement in subsection 21.2(0.1) of the Act to be recognized as a clearing agency (**Order**), subject to terms and conditions as set out in the Order.

The Commission published JSCC's application and draft exemption order for comment on July 18, 2024 on the OSC website at: https://www.osc.ca/en/industry/market-regulation/clearing-agencies-and-clearing-houses/exempted-clearing-agencies/japan-securities-clearing-corporation/osc-notice-and and at (2024), 47 OSCB 6028. No comment letters were received.

In issuing the Order, no changes were made to the draft order published for comment.

A copy of the Order is published in Chapter B.2 of this Bulletin.

B.11.3.2 CDS Clearing and Depository Services (CDS) – Proposed Material and Technical Amendments to CDS External Procedures Related to CDS Post Trade Modernization (PTM) – Notice of Material & Technical Rule Submissions

NOTICE OF MATERIAL & TECHNICAL RULE SUBMISSIONS

CDS CLEARING AND DEPOSITORY SERVICES
(CDS)

PROPOSED MATERIAL AND TECHNICAL AMENDMENTS TO
CDS EXTERNAL PROCEDURES RELATED TO CDS POST TRADE MODERNIZATION (PTM)

CDS has submitted to the Commission, proposed amendments to the CDS external procedures related to CDS PTM.

The objective of PTM is to upgrade the CDS clearing, settlement and depository platform to a more modern, flexible and supportable technology, which will allow for flexibility in building future changes and will ease future support activities.

CDS is proposing to streamline the current procedures so that there are two documents in the future state for each key function resulting in a clear distinction between procedures and users guides. Material rule changes and technical rule changes have been incorporated within the submission.

CDS's primary objective is to ensure that the document will accurately capture the changes to CDSX and related processes under PTM.

The proposed amendments have been posted for public comment on the CDS website. The 60-day public comment period ends on December 3, 2024.

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