**The Ontario Securities Commission**

# OSC Bulletin

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**A.1.1 Ontario Securities Commission et al. – ss. 127(1), 127.1**

**FILE NO.:** 2025-8

**ONTARIO SECURITIES COMMISSION**

**(Applicant)**

**AND**

**BLOCKRATIZE INC. AND**
**ADVENTURE ONE QSS INC.**

**(Respondents)**

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

**PROCEEDING TYPE:** Public Settlement Hearing

**HEARING DATE AND TIME:** April 14, 2025, at 10:00 a.m.

**LOCATION:** By videoconference

**PURPOSE**

The purpose of this hearing is to consider whether it is in the public interest for the Capital Markets Tribunal to approve the Settlement Agreement dated March 31, 2025, between the Commission, Blockratize Inc. and Adventure One QSS Inc. in respect of the application filed by the Commission dated March 31, 2025.

**REPRESENTATION**

Any party to the proceeding may be represented by a representative at the hearing.

**FAILURE TO ATTEND**

**IF A PARTY DOES NOT ATTEND, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.**

**FRENCH HEARING**

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Tribunal in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

**AVIS EN FRANÇAIS**

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Tribunal par écrit dès que possible si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 1st day of April, 2025.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

**For more information**

Please visit capitalmarketstribunal.ca or contact the Registrar at registrar@capitalmarketstribunal.ca.

**ONTARIO SECURITIES COMMISSION**

**(Applicant)**

**AND**

**BLOCKRATIZE INC. AND**
**ADVENTURE ONE QSS INC.**

**(Respondents)**

**APPLICATION FOR ENFORCEMENT PROCEEDING**
(Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

## A. OVERVIEW

1. Between June 16, 2020 and May 26, 2023 (the **Material Time**), utilizing blockchain technology, Blockratize Inc. (**Blockratize**) and later Adventure One QSS Inc. (**Adventure One**, together with Blockratize, the **Respondents**) operated an online[1] global options trading platform (**Polymarket**),[2] which was accessible to Ontario residents, in violation of Ontario securities law.

2. Polymarket offered the public the opportunity to "bet on your beliefs" by trading in options with individuals, in Ontario and beyond, where the amount of payout was based on the outcome of a future event. The majority of these event-based options were based on individuals betting on the outcome of a "yes" or "no" proposition (e.g., Will U.S. inflation be more than 0.2% from July to August 2022?) or on a multiple-choice question (e.g. 2022 Winter Olympics: Will the USA or Canada get more gold medals?). These options constitute "binary options" under Multilateral Instrument 91-102 *Prohibition of Binary Options* (**MI 91-102**).

3. Binary options are risky products. The Respondents contravened MI 91-102 by offering binary options in Ontario through Polymarket and exposed Ontario investors to associated risks. None of the Respondents have been granted any exemptive relief under MI 91-102 to offer binary options in Ontario.

## B. GROUNDS

The Ontario Securities Commission (the **Commission**) makes the following allegations of fact:

### i. Platform Overview

4. Polymarket has been publicly available since on or around June 16, 2020.

5. During the Material Time, Ontario residents were able to use Polymarket to purchase options in what are commonly referred to as "event-based markets" or "prediction markets" (hereinafter referred to as "contracts"). The options in these contracts included binary options in the form of winner-take-all contracts through which individuals bid on whether a given event would occur, with a term to maturity of less than 30 days.

### ii. Options Offered Through Polymarket

6. The majority of event-based contracts offered through Polymarket during the Material Time were comprised of binary options pairs related to an event taking place in the future – a "yes" option and a "no" option (e.g., Will U.S. inflation be more than 0.2% from July to August 2022?) (**Binary Contracts**). Some of the event-based contracts through Polymarket differed slightly by providing multiple discrete non-yes/no options (e.g., 2022 Winter Olympics: Will the USA or Canada get more gold medals?) (**Categorical Contracts**, and together with Binary Contracts, **Contracts**). Upon resolution of the event underlying a Contract, holders of the winning options were able to redeem their options for a fixed amount of USD Coin (**USDC**), a value-referenced crypto asset that references the value of the United States dollar. Conversely, upon resolution the losing options had a redemption value of zero.

7. The Respondents created each Contract by programming and deploying open source software code (commonly known as a "smart contract protocol" or "protocol") that created, defined, executed and resolved the Contracts on the Polygon blockchain network. The Respondents made those Contracts available through the Polymarket website user interface (**Polymarket User Interface**).

[1] Polymarket operated using the web address polymarket.com, formerly poly.market.
[2] In this Application, unless otherwise stated, all activities of Blockratize described refer to activities prior to January 2022. All activities of Adventure One described refer to activities in and after January 2022.

8. The Polymarket User Interface allowed residents of Ontario to interact with the smart contract protocol through which they could, among other things, select a Contract and review the Contract terms, add liquidity to the Contract, transmit an order for an option in the Contract, view aggregated pricing data and price charts, track their own positions, and redeem trading profits, if any. The Polymarket User Interface provided continuously-updated pricing information along with dynamic information concerning each Contract's trading volume and available liquidity in each Contract's liquidity pool.

9. Many of the Contracts offered through Polymarket fell under categories that attract speculation, such as politics, sports, crypto, coronavirus, and pop culture. The Polymarket User Interface allowed Ontario residents to search for Contracts by category.

**iii. Process and Functionalities of Polymarket**

10. During the Material Time, Ontario residents accessed the trading functionalities of Polymarket by either connecting their self-hosted digital wallet, or by providing an email address, which in turn prompted an instruction to the Polygon blockchain network to create a smart contract wallet address for the Ontario resident (a **Designated Wallet**) that would allow the Ontario resident to take positions in Contracts by transferring USDC to smart contracts created by the Respondents. No other information was required. The individual's Designated Wallet was viewable through the Polymarket User Interface, allowing the individual to trade in Contracts through Polymarket.[3]

11. Individuals purchased options in the Contracts through Polymarket by depositing USDC to their Designed Wallets and committing such USDC to the relevant smart contract protocols created by Blockratize, prior to January 2022, and by Adventure One, in and after January 2022.

12. The portfolio page of the Polymarket User Interface displayed the USDC balance deposited to individuals' Designated Wallets, and their positions in each Contract to which they had committed USDC.

13. The conditions by which the Contracts resolved were defined by the smart contract protocols deployed by the Respondents and described on the Polymarket User Interface. Any dispute or ambiguity in the Contract resolution (i.e., determining the winning option) was resolved by:

    (a) for all Contracts resolved prior to January 12, 2022, Polymarket's "Markets Integrity Committee" (**MIC**), staffed by Blockratize personnel prior to January 2022 and Adventure One personnel as of January 2022, which verified the resolution date, checked the resolution source's data and determined which outcome the data fit into, read the entirety of the contract description with consideration for edge cases, and ensured that the correct outcome matched the payouts;

    (b) for all but four Contracts resolved between January 12 and April 8, 2022, the "UMA's Optimistic Oracle" (**UMA**),[4] which was integrated into Polymarket by Adventure One; and

    (c) for all Contracts resolved after April 8, 2022, UMA.

14. The Respondents also made available on the Polymarket User Interface an online "Knowledge Center" to assist individuals in and outside Ontario to access and trade through Polymarket, including by providing information regarding connecting to Polymarket, deposits and withdrawals, Contracts, portfolios, options, liquidity, and Contract resolution.

15. In addition, the Respondents engaged in the following activities during the Material Time to solicit participation and trading in Contracts through Polymarket:

    (a) displaying a prominent banner near the top of the Polymarket homepage with the words "Bet on your Beliefs";

    (b) providing dollar figures for "Maximum Winnings" and percentage figures for "Max Return on Investment" on the Polymarket User Interface for inputting the terms of trade orders. In particular, the "Maximum Winnings" figure displayed would increase proportionally to the amount an individual decided to commit;

    (c) creating a leaderboard page listing the traders with the highest trading volume and highest profit, respectively, along with gold, silver, and bronze medal icons next to the top three traders in each category;

    (d) providing a link to polymarketwhales.info, a third party website which aggregated the trading data on Polymarket that, by default, sorted the wallet addresses with the highest profits in descending order of profit amounts;

[3] The Respondents did not hold or have access to USDC held by Ontario residents or other individuals in Designated Wallets or traded through the Polymarket User Interface.

[4] UMA is a decentralized protocol that verifies data and resolves disputes on blockchain networks. UMA was fully integrated into Polymarket on January 12, 2022.

(e) automatically prompting individuals to tweet their trades upon the completion of a transaction through Polymarket;

(f) holding giveaway events that provided prizes, including prizes available only to those who trade in certain Contracts during a specified time period;

(g) labelling, with a gift box icon (previously a lightning bolt icon), those Contracts that provided rewards based on trading in them;

(h) providing rewards for trading, liquidity provisioning, and marketing material, among other things; and

(i) providing links to the Polymarket Twitter account and Discord server under the heading "Join the Community":

(i) the Polymarket Twitter account regularly tweeted and retweeted Contracts available through Polymarket, including the price of the options in those Contracts. As of March 13, 2023, the Polymarket Twitter account had approximately 26,400 followers.

(ii) the Polymarket Discord server provided a forum for people to discuss trades and Contracts available through Polymarket. The Respondents' representatives made announcements on this Discord server about new Contracts, weekly rewards for trading/liquidity provisioning, and improvements to Polymarket, among other things. As of March 25, 2023, the Polymarket Discord server had nearly 6,000 members.

**iv. Binary Options Trading Volume Through Polymarket**

16. During the Material Time, Polymarket offered at least 6,044 event-based contracts which together had approximately over $254 USD million in trading volume. Those event-based contracts included 3,873 Binary Contracts and 2,100 Categorical Contracts.

17. The options traded in the Contracts during the Material Time constitute "binary options", as defined in MI 91-102.

18. Out of the 5,973 Contracts that were offered through Polymarket during the Material Time, approximately 5,375 have contained at least one trade in options made less than 30 days from the date of maturity. Of those Contracts, 4,948 had an initial term to maturity of less than 30 days. During the Material Time, approximately 58% of all trading in Contracts through Polymarket were made less than 30 days from the maturity date.

**v. Polymarket's Ontario Presence**

19. Polymarket was available to Ontario residents during the Material Time. Ontario residents have used the Polymarket User Interface to create Designated Wallets, deposited USDC to those Designated Wallets, and traded options in Contracts through Polymarket.

20. The Respondents did not restrict their advertising and promotions of Polymarket from being viewed by individuals accessing the platform from Ontario, although no advertising or promotion of Polymarket specifically targeted Ontario or Ontario residents.

21. During the Material Time, there were 28,454 visitors to the Polymarket website with location data corresponding with Ontario.

22. After the Commission contacted the Respondents, on May 26, 2023, the Respondents implemented access restrictions on the Polymarket User Interface to prohibit Ontario residents from purchasing options in Contracts through Polymarket (**Ontario Restrictions**) and announced those restrictions on Polymarket's Discord server and by way of a temporary banner on the Polymarket website homepage. According to the announcements, the Ontario Restrictions would only permit Ontario residents to sell and redeem their options in Polymarket's event-based contracts until June 9, 2023.

23. Subsequent to June 9, 2023, individuals using Ontario-based IP addresses have continued to be able to sell and redeem their options through Polymarket in order to close their positions in Contracts, although they are unable to buy new options.

24. Based on available data regarding total global visitors, total global traders and total Ontario visitors to the Polymarket website, it is estimated that approximately $22,966.75 USD of revenues earned by the Respondents in connection with trading activities through Polymarket are attributable to trading activities by Ontario residents during the Material Time.

### vi. The Operators of Polymarket

25. Blockratize, a Delaware corporation with offices in the United States, operated Polymarket from on or about June 16, 2020 to at least January 10, 2022. Prior to January 11, 2022, the Terms of Use on Polymarket stated that the website, software applications, features, applications, and other related services were provided by Blockratize.

26. On January 3, 2022, the United States' Commodity Futures Trading Commission (the **CFTC**) issued an order imposing sanctions on Blockratize on consent of Blockratize (the **CFTC Order**). In making the CFTC Order, the CFTC made findings of facts and concluded that Blockratize contravened the United States Commodity Exchange Act and CFTC regulations.[5]

27. Among other things, the CFTC ordered Blockratize to cease offering access to trading in contracts displayed on Polymarket, unless such offering, solicitation, or trading complied with the applicable statute and regulations in the United States.

28. Adventure One, a company incorporated under the laws of Panama, has operated Polymarket since at least January 11, 2022. On January 11, 2022, the Terms of Use on Polymarket were updated to reflect that Polymarket was made available by Adventure One. The updated Terms of Use also identify Blockratize as a developer of software which Adventure One licenses.

29. The Respondents did not engage in any compliance discussions with the Commission prior to making Polymarket available in Ontario. None of the Respondents have been granted any exemptive relief under MI 91-102 to offer binary options in Ontario.

## C. BREACH

The Commission alleges the following breach of Ontario securities law:

30. During the Material Time, the Respondents breached Ontario securities law by, without lawful exemption, advertising, offering, selling or otherwise trading binary options with or to an individual, contrary to s. 2 of MI 91-102.

## D. ORDER SOUGHT

31. The Commission requests that the Tribunal make an order pursuant to subsection 127(1) and section 127.1 of the Act to approve the settlement agreement between the Commission and the Respondents with respect to the matters set out herein.

**DATED** this 31st day of March, 2025.

**ONTARIO SECURITIES COMMISSION**
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[5] In the Matter of Blockratize, Inc. d/b/a Polymarket.com, CFTC Docket No. 22-09.

# A.2
# Other Notices

### A.2.1 Thomas John Finch

**FOR IMMEDIATE RELEASE**
**March 26, 2025**

**THOMAS JOHN FINCH,**
**File No. 2023-29**

**TORONTO –** Following a hearing held today, the Tribunal issued an Order in the above-named matter approving the Settlement Agreement reached between the Thomas John Finch and Ontario Securities Commission.

A copy of the Order dated March 26, 2025, Settlement Agreement dated March 18, 2025, and Oral Reasons for Approval of a Settlement dated March 26, 2025 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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### A.2.2 Ontario Securities Commission et al.

**FOR IMMEDIATE RELEASE**
**March 31, 2025**

**ONTARIO SECURITIES COMMISSION AND**
**EMERGE CANADA INC.,**
**LISA LANGLEY,**
**DESMOND ALVARES,**
**MARIE ROUNDING,**
**MONIQUE HUTCHINS AND**
**BRUCE FRIESEN,**
**File No. 2025-7**

**TORONTO –** The Tribunal issued an Order in the above-named matter.

A copy of the Order dated March 31, 2025 is available at capitalmarketstribunal.ca.

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### A.2.3 Notice of Correction – Oasis World Trading Inc. et al.

**NOTICE OF CORRECTION**

**File No.** 2023-38

**IN THE MATTER OF**
**OASIS WORLD TRADING INC.,**
**ZHEN (STEVEN) PANG, AND**
**RIKESH MODI**

Please be advised that the following Tribunal Orders in the above-named matter contain a typographical error in the Title of Proceeding. In all of the following Orders, the errors have been corrected and "ZEHN (STEVEN) PANG" is replaced with "ZHEN (STEVEN) PANG":

- (2024), 47 OSCB 789 – January 22, 2024, Order
- (2024), 47 OSCB 4283 – May 15, 2024, Order
- (2024), 47 OSCB 6227 – July 24, 2024, Order
- (2024), 47 OSCB 6398 – August 1, 2024, Order
- (2024), 47 OSCB 6865 – August 27, 2024, Order
- (2024), 47 OSCB 9444 – December 5, 2024, Order

(2024), 47 OSCB 7145. Please also be advised that following typographical errors have been corrected in the Reasons For Decision dated September 6, 2024:

- In the Title of Proceeding on the cover page, "ZEHN (STEVEN) PANG" is replaced with "ZHEN (STEVEN) PANG"; and
- Under "Appearances" on the cover page, "Zehn (Steven) Pang" is replaced with "Zhen (Steven) Pang".

### A.2.4 Ontario Securities Commission et al.

**FOR IMMEDIATE RELEASE**
**April 1, 2025**

**ONTARIO SECURITIES COMMISSION AND**
**BLOCKRATIZE INC. AND**
**ADVENTURE ONE QSS INC.,**
**File No. 2025-8**

**TORONTO –** The Tribunal issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a Settlement Agreement entered into by the Commission, Blockratize Inc. and Adventure One QSS Inc. in the above-named matter.

The hearing will be held on April 14, 2025, at 10:00 a.m. by videoconference.

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

A copy of the Notice of Hearing dated April 1, 2025, and the Application for Enforcement Proceeding dated March 31, 2025 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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# A.3
# Orders

**A.3.1 Thomas John Finch – ss. 127(1), 127.1**

**IN THE MATTER OF**
**THOMAS JOHN FINCH**

**File No.** 2023-29

**Adjudicators**: Tim Moseley (chair of the panel)
Andrea Burke
Jane Waechter

**March 26, 2025**

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

**WHEREAS** on March 26, 2025, the Capital Markets Tribunal held a hearing by video conference to consider the Joint Request for a Settlement Hearing filed by Thomas John Finch and the Ontario Securities Commission for approval of a settlement agreement dated March 18, 2025 (the **Settlement Agreement**);

**ON READING** the Statement of Allegations dated October 23, 2023, the Settlement Agreement, and the written submissions of the Commission, on hearing the submissions of the representatives for the parties, and on being advised by the Commission that it has received payment from the respondent in the amount of $257,336.27;

**IT IS ORDERED THAT:**

1. the Settlement Agreement is approved;

2. pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the *Securities Act* (the ***Act***), trading in any securities or derivatives, and the acquisition of any securities, by the respondent cease for a period of ten years, except that the respondent shall be permitted to trade, solely through a registered dealer in Ontario to whom the respondent has given a copy of this order: mutual funds, exchange-traded funds, government bonds and/or guaranteed investment certificates, for the account of any registered retirement savings plan, registered retirement income fund and tax-free savings account, as defined in the Income Tax Act, RSC 1985, c 1 (5th Supp), in which the respondent has sole legal and beneficial ownership;

3. pursuant to paragraph 3 of subsection 127(1) of the *Act*, any exemptions contained in Ontario securities law do not apply to the respondent for a period of ten years;

4. pursuant to paragraph 6 of subsection 127(1) of the *Act*, the respondent be reprimanded;

5. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the *Act*, the respondent immediately resign any position that the respondent holds as a director or officer of any reporting issuer, registrant, or investment fund manager;

6. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the *Act*, the respondent be prohibited from becoming or acting as a director or officer of any reporting issuer, registrant, or investment fund manager for a period of ten years;

7. pursuant to paragraph 9 of subsection 127(1) of the *Act*, the respondent pay to the Commission an administrative penalty in the amount of $235,000; and

8. pursuant to subsection 127.1(1) of the *Act*, the respondent pay to the Commission costs of the investigation in the amount of $22,336.27.

“Tim Moseley”

“Andrea Burke”

“Jane Waechter”

**IN THE MATTER OF**
**THOMAS JOHN FINCH**

**SETTLEMENT AGREEMENT**

## PART I - INTRODUCTION

1. This case involves insider trading by a key member of the deal team working on the acquisition of Liberty Health Sciences Inc. (**Liberty**). Between October 15, 2020 and December 17, 2020 (the **Material Time**), Thomas John Finch (**Finch** or the **Respondent**), the Director of Corporate Development for Cresco Labs, Inc. (**Cresco**), purchased 293,550 shares of Liberty while Cresco was in negotiations to purchase Liberty. Liberty was ultimately acquired by a competing bidder, Ayr Strategies Inc. (**Ayr**), and the deal was announced on December 22, 2020 (the **Announcement**).

2. Finch had an unfair advantage and access to material, non-public information when he repeatedly purchased Liberty shares leading up to the Announcement. Following the Announcement, the closing price of Liberty shares increased over 64.8% from that of the previous day, and Finch's Liberty shares increased in value by 82%.

3. Insider trading is a fundamental abuse of the capital markets. Using material, non-public information when purchasing shares of an acquisition target is inherently unfair to other investors and erodes public confidence in the capital markets. It is essential that individuals who come into possession of material, non-public information in the course of their employment abide by insider trading policies and do not use that information for their personal financial gain.

## PART II - JOINT SETTLEMENT RECOMMENDATION

4. A Notice of Hearing was issued, and a Statement of Allegations was published in respect of a proceeding against the Respondent (the **Proceeding**), on October 23, 2023.

5. The parties will jointly file a request that the Capital Markets Tribunal (the **Tribunal**) issue a Notice of Hearing (the **Notice of Hearing**) to announce that it will hold a hearing (the **Settlement Hearing**) to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5 (the **Act**), it is in the public interest for the Tribunal to make certain orders against the Respondent.

6. The parties recommend settlement of the Proceeding against the Respondent in accordance with the terms and conditions set out in this agreement (the **Settlement Agreement**). The Respondent consents to the making of an order (the **Order**) substantially in the form attached as Schedule "A" to this Settlement Agreement based on the facts set out herein.

7. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts set out in Part III of this Settlement Agreement and the conclusions in Part IV and V of this Settlement Agreement.

## PART III - AGREED FACTS

### A. FACTS

#### *Finch's Role at Cresco*

8. Finch is a resident of Ontario. Finch was an employee of CannaRoyalty Corp. d/b/a Origin House (**Origin House**), which was acquired by Cresco in January 2020. Following the acquisition, Finch was the Director of Corporate Development for Cresco, a cannabis and medical marijuana company based in Chicago, Illinois. At that time, Finch's role was to identify and work on growing the Cresco business through mergers and acquisitions (**M&A**).

#### *Insider Trading Policy*

9. Cresco had an insider trading policy in effect during the September 1, 2020 to January 31, 2021 period (the **Policy**), which applied to all employees, including employees of Origin House such as Finch. Under the section "Prohibited and Restricted Activities," the Policy states:

> You must not engage in transactions in any securities, whether of the Company or of any other companies, while in possession of material, non-public information regarding such company or securities, including engaging in transactions in any securities of companies with which the Company does business, or may do business, when you are in possession of material, non-public information regarding such company or securities.

10. The Policy defined "material undisclosed information" and provided examples, including "major corporate acquisitions and dispositions." The Policy also stated that if "you have any doubt about whether certain information is **"material,"** you should ***not*** trade or communicate such information."

11. Mr. Finch was aware of Cresco's Policy and knew that it applied to him.

***Negotiation of the Liberty Deal***

12. Liberty, a medical marijuana company, was a reporting issuer in Ontario headquartered in Gainsville, Florida. Liberty was listed on the Canadian Securities Exchange under the ticker symbol "LHS" and on the over-the-counter markets under the ticker symbol "LHSIF." It was delisted on February 26, 2021 after being acquired by Ayr.

***Finch's Role on the Liberty Deal***

13. Mr. Finch was involved in the negotiations to acquire Liberty during the Material Time.

14. As of October 15, 2020, Finch was aware that Cresco had proposed to acquire Liberty. Finch was introduced to Liberty contacts as one of the people leading work streams for Cresco M&A initiatives.

15. On October 16, 2020, Finch was listed as a "key contact" on the working group list for the team assigned to work on the Liberty acquisition.

16. On October 20, 2020, Cresco signed a confidentiality and non-disclosure agreement with Liberty (the **NDA**), which provided, among other things, that Cresco and its employees could not use confidential information provided by Liberty directly or indirectly for any purpose other than in connection with the proposed transaction.

17. The following day, on October 21, 2020, Finch attended a Management Presentation with Liberty. He was also given access to the Liberty data room and began conducting due diligence on Liberty. This due diligence included requests for information on Liberty's business, reviewing documents uploaded to the Liberty data room, preparing and reviewing financial models of Liberty, and organizing site visits of Liberty locations.

***Progress of the Liberty Deal***

18. During the negotiations, Finch (i) attended meetings between Cresco and Liberty to negotiate the proposed transaction, (ii) was involved in Cresco's due diligence on Liberty, and (iii) was involved in preparing and communicating Cresco's offers to purchase Liberty.

19. As of October 27, 2020, Finch was aware that: (i) Liberty and Cresco were discussing a 100% change of control premium on their share price, and (ii) Liberty wanted to have the acquisition completed by the end of 2020.

20. As of November 23, 2020, Finch was aware that a competitor was also bidding on Liberty and would likely be making an offer that day. As of the next day, November 24, 2020, Finch was aware that Cresco was seeking internal board approval for a proposed transaction to acquire all issued and outstanding shares of Liberty on the following terms: (i) initial offer at CAD $0.70 per share, and (ii) approval to go up to CAD $1.00 per share.

21. On November 26, 2020, Finch was aware that Cresco prepared and sent a Letter of Intent (**LOI**) to Liberty's agent. The LOI proposed a purchase price of CDN$0.80 per share.

22. As of November 29, 2020, Finch was aware that Liberty: (i) sent back Cresco's LOI with comments, (ii) was negotiating with two "very serious parties" and had terminated discussions with other parties, and (iii) expected a purchase price between CDN$0.80-$1.00 per share.

23. On December 2, 2020, Finch sent a second revised LOI to Liberty on Cresco's behalf. That evening, Finch spoke with Liberty's agent and was advised that there would be two competing offers, and both offers were going to be presented to the Liberty Board of Directors the next day.

24. As of December 3, 2020, Finch was aware that Ayr was the second bidder and that they had submitted an offer of CDN$0.90 per share. That same day, Cresco communicated a revised LOI offer to Liberty's agent.

25. On December 4, 2020, Cresco sent a further revised LOI to Liberty with an offered purchase price of CDN$0.90 per share. Earlier that day, Cresco became aware that Ayr had revised its offer to CDN$0.925 per share. Cresco also received a message from Liberty indicating that Liberty had likely entered into exclusivity with Ayr.

26. On December 14, 2020, Cresco sent a further revised LOI to Liberty with an offered purchase price of CDN$1.00 per share.

27. On December 21, 2020, Liberty's agent notified Cresco that Cresco's offer was not accepted.

***Liberty Announcement***

28. On December 22, 2020, Liberty and Ayr announced that they had entered into a definitive arrangement agreement pursuant to which Ayr would acquire all the issued and outstanding shares of Liberty in an all-share transaction for a total consideration of approximately $372 million (or US$290 million) on a fully diluted basis.

***Insider Trading of Liberty Shares***

29. On May 7, 2020, Finch opened a new brokerage account at Interactive Brokers. Finch listed his occupation as self-employed as a management analyst, despite being an employee of Origin House and the Director of Corporate Development for Cresco.

30. Between November 2, 2020 and December 17, 2020, Finch purchased 293,550 Liberty shares for $143,406. He purchased Liberty shares 21 times on 11 different days, splitting the purchases between his new account at Interactive Brokers and an existing account at Questrade. Both his Questrade and Interactive Brokers accounts were self-directed trading accounts, meaning that Finch was solely responsible for all his investment decisions and transactions.

| | Trade Date | Account | Order Placed | Order Filled | Share Price | Shares Purchased | Purchase Amount[1] |
|---|---|---|---|---|---|---|---|
| 1. | November 2, 2020 | Interactive Brokers | 9:41 | 9:59 | $0.45 | 10,000 | $4,526.10 |
| 2. | November 2, 2020 | Interactive Brokers | 11:15 | 1:09 | $0.46 | 10,000 | $4,626.60 |
| 3. | November 5, 2020 | Interactive Brokers | 8:44 | 10:55 | $0.45 | 12,500 | $5,657.50 |
| 4. | November 5, 2020 | Interactive Brokers | 8:44 | 10:57 | $0.45 | 7,500 | $3,393.30 |
| 5. | November 9, 2020 | Interactive Brokers | 9:44 | 10:17 | $0.51 | 40,000 | $20,510.50 |
| 6. | November 23, 2020 | Interactive Brokers | 12:44[2] | 1:21 | $0.455 | 20,000 | $9,050.80 |
| 7. | November 23, 2020 | Interactive Brokers | 1:05 | 1:15 | $0.455 | 7,000 | $3,203.44 |
| 8. | November 23, 2020 | Interactive Brokers | 1:05 | 1:19 | $0.455 | 3,000 | $1,372.90 |
| 9. | November 24, 2020 | Questrade | 11:15 | 12:47 | $0.45 | 20,000 | $9,009.95 |
| 10. | December 2, 2020 | Interactive Brokers | 10:32 | 11:57 | $0.50 | 5,000 | $2,514.30 |
| 11. | December 7, 2020 | Questrade | 9:48 | 2:28 | $0.51 | 20,000 | $10,209.95 |
| 12. | December 7, 2020 | Interactive Brokers | 12:09 | 12:31 | $0.51 | 20,000 | $10,256.80 |
| 13. | December 8, 2020 | Questrade | 9:56 | 2:57 | $0.51 | 20,000 | $10,209.95 |
| 14. | December 9, 2020 | Interactive Brokers | 1:56 | 3:02 | $0.49 | 20,000 | $9,854.80 |
| 15. | December 9, 2020 | Interactive Brokers | 3:19 | 3:33 | $0.485 | 3,000 | $1,463.36 |
| 16. | December 9, 2020 | Interactive Brokers | 3:19 | 3:34 | $0.485 | 9,000 | $4,390.02 |

[1] The purchase amount is “Net” meaning it reflects the total after commissions are paid.
[2] This order was placed on November 19, 2020 and filled on November 23, 2020.

| | Trade Date | Account | Order Placed | Order Filled | Share Price | Shares Purchased | Purchase Amount[1] |
|---|---|---|---|---|---|---|---|
| 17. | December 9, 2020 | Interactive Brokers | 3:19 | 3:36 | $0.485 | 2,500 | $1,219.04 |
| 18. | December 9, 2020 | Interactive Brokers | 3:19 | 3:36 | $0.485 | 5,500 | $2,681.88 |
| 19. | December 9, 2020 | Questrade | 9:37 | 9:37 | $0.51 | 13,550 | $6,931.29 |
| 20. | December 11, 2020 | Interactive Brokers | 9:44 | 9:44 | $0.48 | 25,000 | $12,066.75 |
| 21. | December 17, 2020 | Interactive Brokers | 9:39 | 9:40 | $0.51 | 20,000 | $10,256.80 |
| **Total** | | | | | | **293,550** | **$143,406.03** |

31. Finch's initial purchase of Liberty shares on November 2, 2020 was the first time he purchased shares of Liberty.

32. The total amount that Finch used to purchase his Liberty shares (i.e., $143,406.03) represented approximately 19.9% of Finch's total portfolio, which was valued at $721,989 as of October 31, 2020.

33. There was no general disclosure of the Liberty Announcement, or general disclosure of any acquisition of Liberty by Liberty, Cresco, Ayr, or any other party during the Material Time or prior to the Liberty Announcement.

34. As of the date of the Announcement (i.e., December 22, 2020), the trading volume for Liberty shares increased 1987% and the price for Liberty shares increased 65%, as compared to the previous day. As a result, the closing price for Liberty shares on December 22, 2020 was $0.89 per share. Accordingly, Finch's shares increased in value by 82%, and he had an expected profit of $117,854. Finch's expected profit was based on the total number of shares that Finch owned and Liberty's closing price as of December 22, 2020 (i.e., 293,550 shares x $0.89 per share). In other words, had Finch sold his Liberty shares on December 22, 2020, he would have obtained $261,259.50, of which $117,854 would have been profit.

35. However, Finch did not sell any Liberty shares. After the Liberty deal was concluded, Finch's Liberty shares were converted into 10,810 Ayr shares.

36. Between March and August 2023, Finch sold 1,554 Ayr shares for $1,535.01. In February 2025, he sold his remaining 9,256 Ayr shares for $5,801.26. The total amount he obtained from the sale of his Ayr shares was $7,336.27.

37. Finch admitted that the information he learned about Liberty during the negotiation of the Liberty deal formed at least part of his decision to purchase Liberty shares.

**B. MITIGATING FACTORS**

38. Finch has accepted full responsibility for his conduct and admits to his part in insider trading.

39. Finch has no history of prior misconduct with any securities regulatory authority or history of registration at the time of the conduct.

**PART IV - NON-COMPLIANCE WITH ONTARIO SECURITIES LAW**

40. The Respondent acknowledges and admits that, during the Material Time, while in a special relationship with an issuer, he purchased or sold securities of the issuer with the knowledge of a material fact or a material change with respect to the issuer that had not been generally disclosed, contrary to subsection 76(1) of the Act.

**PART V - TERMS OF SETTLEMENT**

41. The Respondent agrees to the terms of settlement set forth below.

42. The Respondent consents to the Order substantially in the form attached as Schedule "A", pursuant to which it is ordered that:

    (a) the Settlement Agreement is approved;

(b) trading in any securities or derivatives by the Respondent cease for a period of 10 years commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the Act, except that the Respondent shall be permitted to trade:

(i) mutual funds, exchange-traded funds, government bonds and/or guaranteed investment certificates (**GICs**) for the account of any registered retirement savings plan (**RRSP**), registered retirement income fund (**RRIF**) and tax-free savings account (**TFSA**), as defined in the *Income Tax Act*, RSC 1985, c 1 as amended (the **Income Tax Act**), in which the Respondent has sole legal and beneficial ownership; and

(ii) solely through a registered dealer in Ontario, to whom the Respondent must have given a copy of the Order.

(c) the acquisition of any securities by the Respondent be prohibited for a period of 10 years commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act, except that the Respondent shall be permitted to acquire:

(i) mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as defined in the Income Tax Act, in which the Respondent has sole legal and beneficial ownership; and

(ii) solely through a registered dealer in Ontario, to whom the Respondent must have given a copy of the Order.

(d) any exemptions contained in Ontario securities law do not apply to the Respondent for a period of 10 years commencing on the date of the Order, pursuant to paragraph 3 of subsection 127(1) of the Act;

(e) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

(f) the Respondent immediately resign any position that the Respondent holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;

(g) the Respondent immediately resign any position that the Respondent holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

(h) the Respondent immediately resign any position that the Respondent holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;

(i) the Respondent be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 10 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;

(j) the Respondent be prohibited from becoming or acting as a director or officer of any registrant for a period of 10 years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

(k) the Respondent be prohibited from becoming or acting as a director or officer of any investment fund manager for a period of 10 years commencing on the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;

(l) the Respondent pay an administrative penalty in the amount of $235,000, pursuant to paragraph 9 of subsection 127(1) of the Act;

(m) the Respondent pay to the Commission costs of the investigation in the amount of $22,336.27, pursuant to subsection 127.1(1) of the Act; and

(n) the amounts set out in sub-paragraphs (l) and (m) be paid in full to the Commission by wire transfer on or before March 3, 2025.

43. The Respondent consents to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in paragraph 42, other than sub-paragraphs 42(l) and 42(m). These sanctions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

44. The Respondent acknowledges that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondent. The Respondent should contact the securities regulator of any other jurisdiction in which the Respondent intends to engage in any securities or derivatives related activities, prior to undertaking such activities.

**PART VI - FURTHER PROCEEDINGS**

45. If the Tribunal approves this Settlement Agreement, no enforcement proceedings will be continued against the Respondent under Ontario securities law based on the misconduct described in Part III of this Settlement Agreement, unless the Respondent fails to comply with any term in this Settlement Agreement, in which case enforcement proceedings may be brought or continued under Ontario securities law against the Respondent that may be based on, among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

46. The Respondent acknowledges that, if the Tribunal approves this Settlement Agreement and the Respondent fails to comply with any term in it, proceedings may be brought in order to, among other things, recover the amounts set out in sub-paragraphs 42(l) and 42(m) above.

47. The Respondent waives any defences to a proceeding referenced in paragraph 45 or 46 that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

**PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT**

48. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Tribunal, which shall be held on a date determined by the Tribunal's Governance and Tribunal Secretariat in accordance with this Settlement Agreement and the Tribunal's *Rules of Procedure*.

49. The Respondent will attend the Settlement Hearing in person or by video conference.

50. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

51. If the Tribunal approves this Settlement Agreement:

    (a) the Respondent irrevocably waives all rights to a full hearing, judicial review or appeal of this matter under the Act; and

    (b) neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

52. Whether or not the Tribunal approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission or the Tribunal's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

**PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT**

53. If the Tribunal does not approve this Settlement Agreement or does not make an order substantially in the form of the Order attached as Schedule "A" to this Settlement Agreement:

    (a) this Settlement Agreement and all discussions and negotiations between the parties before the Settlement Hearing will be without prejudice to any party; and

    (b) the parties will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

54. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, except as is necessary to make submissions at the Settlement Hearing. If, for whatever reason, the Tribunal does not approve the Settlement Agreement, the terms of the Settlement Agreement shall remain confidential indefinitely, unless the parties otherwise agree in writing or if required by law.

**PART IX - EXECUTION OF SETTLEMENT AGREEMENT**

55. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

56. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

**DATED** at **Toronto**, **Ontario** this 6th day of March, 2025.

"Serena Finch" "THOMAS JOHN FINCH"

Witness: Serena Finch **THOMAS JOHN FINCH**

**DATED** at Toronto, Ontario, this 18th day of March, 2025.

**ONTARIO SECURITIES COMMISSION**

By: "Bonnie Lysyk"

Name: Bonnie Lysyk
Title: Executive Vice President, Enforcement Division

**SCHEDULE "A"**

**FORM OF ORDER**

**IN THE MATTER OF**
**THOMAS JOHN FINCH**

File No. ____

*(Names of panelists comprising the panel)*

*(Day and date order made)*

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

**WHEREAS** on **[date]**, the Capital Markets Tribunal (the **Tribunal**) held a hearing **[in person /by video conference]** to consider the request made jointly by the parties for approval of a settlement agreement dated **[date]** (the **Settlement Agreement**) regarding Thomas John Finch (**Finch** or the **Respondent**);

**ON READING** the joint application for a settlement hearing, including the Settlement Agreement dated **[date]**, the Statement of Allegations dated **[date]**, and the written submissions and on hearing the submissions of the representatives for each of the parties, and on considering the Respondent having made the payment of the administrative penalty and costs amounts in accordance with the terms of the Settlement Agreement;

**IT IS ORDERED THAT:**

1. Pursuant to subsection 127(1) of the Act, the Settlement Agreement is approved;

2. Pursuant to subsection 127(1) and 127.1(1) of the Act, the approval of the Settlement Agreement is subject to the following terms and conditions:

   (a) trading in any securities or derivatives by the Respondent cease for a period of 10 years commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the Act, except that the Respondent shall be permitted to trade:

      (i) mutual funds, exchange-traded funds, government bonds and/or guaranteed investment certificates (**GICs**) for the account of any registered retirement savings plan (**RRSP**), registered retirement income fund (**RRIF**) and tax-free savings account (**TFSA**), as defined in the *Income Tax Act*, RSC 1985, c 1 as amended (the **Income Tax Act**), in which the Respondent has sole legal and beneficial ownership; and

      (ii) solely through a registered dealer in Ontario, to whom the Respondent must have given a copy of the Order.

   (b) the acquisition of any securities by the Respondent be prohibited for a period of 10 years commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act, except that the Respondent shall be permitted to acquire:

      (i) mutual funds, exchange-traded funds, government bonds and/or GICs for the account of any RRSP, RRIF and TFSA, as defined in the Income Tax Act, in which the Respondent has sole legal and beneficial ownership; and

      (ii) solely through a registered dealer in Ontario, to whom the Respondent must have given a copy of the Order.

   (c) any exemptions contained in Ontario securities law do not apply to the Respondent for a period of 10 years commencing on the date of the Order, pursuant to paragraph 3 of subsection 127(1) of the Act;

   (d) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

   (e) the Respondent immediately resign any position that the Respondent holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;

   (f) the Respondent immediately resign any position that the Respondent holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

(g) the Respondent immediately resign any position that the Respondent holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;

(h) the Respondent be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 10 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;

(i) the Respondent be prohibited from becoming or acting as a director or officer of any registrant for a period of 10 years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

(j) the Respondent be prohibited from becoming or acting as a director or officer of any investment fund manager for a period of 10 years commencing on the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;

(k) the Respondent pay an administrative penalty in the amount of $235,000, pursuant to paragraph 9 of subsection 127(1) of the Act; and

(l) the Respondent pay to the Commission costs of the investigation in the amount of $22,336.27, pursuant to subsection 127.1(1) of the Act.

_____
[Adjudicator]

_____ _____
[Adjudicator] [Adjudicator]

### A.3.2 Ontario Securities Commission et al.

**ONTARIO SECURITIES COMMISSION**

**(Applicant)**

**AND**

**EMERGE CANADA INC.,**
**LISA LANGLEY,**
**DESMOND ALVARES,**
**MARIE ROUNDING,**
**MONIQUE HUTCHINS AND**
**BRUCE FRIESEN**

**(Respondents)**

**File No.** 2025-7

**Adjudicators**: Sandra Blake (chair of the panel)
Tim Moseley

**March 31, 2025**

**ORDER**

**WHEREAS** on March 31, 2025, the Capital Markets Tribunal held a hearing by videoconference;

**ON READING** the materials filed by the Ontario Securities Commission, and on hearing the submissions of the representatives for each of the Commission, Desmond Alvares, Marie Rounding, Monique Hutchins and Bruce Friesen, and the submissions of Lisa Langley for herself and on behalf of Emerge Canada Inc.;

**IT IS ORDERED THAT:**

1. by 4:30 PM on April 30, 2025, the Commission shall disclose to the respondents the non-privileged, relevant documents and things in the Commission's possession or control;

2. by 4:30 PM on July 18, 2025, the respondents shall serve and file a motion, if any, regarding the Commission's disclosure or seeking disclosure of additional documents;

3. by 4:30 PM on July 22, 2025, the Commission shall:

   a. serve and file a witness list;

   b. serve a summary of each witness's anticipated evidence on the respondents, and

   c. indicate any intention to call an expert witness, including providing the expert's name and the issues on which the expert will give evidence; and

4. a further case management hearing is scheduled for July 29, 2025, at 10:00 AM, by videoconference, or on such other date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat.

"Sandra Blake"

"Tim Moseley"

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# A.4
# Reasons and Decisions

### A.4.1 Thomas John Finch – ss. 127(1), 127.1

**Citation:** *Finch (Re)*, 2025 ONCMT 5
**Date:** 2025-03-26
**File No.** 2023-29

**IN THE MATTER OF**
**THOMAS JOHN FINCH**

**ORAL REASONS FOR APPROVAL OF A SETTLEMENT**
**(Subsection 127(1) and section 127.1 of the Securities Act, RSO 1990, c S.5)**

| | | |
|---|---|---|
| **Adjudicators**: | Tim Moseley (chair of the panel)<br>Andrea Burke<br>Jane Waechter | |
| **Hearing**: | By videoconference, March 26, 2025 | |
| **Appearances**: | Stacey Reisman | For the Ontario Securities Commission |
| | Daniel Libman | For Thomas John Finch |

**ORAL REASONS FOR APPROVAL OF A SETTLEMENT**

*The following reasons have been prepared for publication, based on the reasons delivered orally at the hearing, as edited and approved by the panel, to provide a public record of the oral reasons.*

[1] The Ontario Securities Commission has alleged that Thomas John Finch engaged in illegal insider trading when he bought shares of Liberty Health Sciences Inc., the target of a potential acquisition in which Finch and his employer were involved. The Commission has alleged that Finch's trading was illegal insider trading, contrary to s. 76(1) of the *Securities Act*.[1]

[2] The Commission and Finch have agreed to resolve the allegation, and they now seek approval of their settlement agreement. We have decided to approve the agreement and to order the sanctions and costs that the parties have proposed.

[3] The settlement agreement sets out the factual background in detail. I will briefly summarize the facts.

[4] Finch is a resident of Ontario and was an employee of CannaRoyalty Corp. In January 2020, CannaRoyalty was acquired by Cresco Labs, Inc., a cannabis and medical marijuana company. After the acquisition, Finch became Cresco's Director of Corporate Development. He was responsible for growing Cresco's business through mergers and acquisitions.

[5] In October 2020, Finch became involved in Cresco's negotiations to acquire Liberty, a medical marijuana company. Liberty was a reporting issuer in Ontario, was listed on the Canadian Securities Exchange and traded on over-the-counter markets.

[6] During the negotiations to acquire Liberty, Finch was identified as a key contact in the acquisition working group. He attended meetings and presentations between Cresco and Liberty. He prepared and communicated Cresco's offers to purchase Liberty, including its final offer to purchase at a significant change of control premium. He learned about a competing bidder that ultimately became the successful bidder. While the bidding was going on, he learned the terms of the competing offers to acquire Liberty and that Liberty had likely entered into exclusivity with the other bidder. He also had access to the Liberty data room. As a result of all of that, Finch had access to material non-public information about Liberty.

[7] In May 2020, Finch opened a new brokerage account, and in doing so he said he was self-employed as a management analyst, even though he was actually employed as Cresco's Director of Corporate Development.

[1] RSO 1990, c S.5

[8] On eleven different days in late 2020, Finch bought $143,406 worth of Liberty shares, through 21 transactions in two self-directed trading accounts. At the time Finch bought the shares, he possessed material non-public information about Liberty. He admits that information he learned about Liberty during the negotiations formed at least part of his decision to buy the shares.

[9] Soon after Finch completed his purchases, Liberty and the competing bidder announced that the competing bidder would acquire all of Liberty's outstanding shares. Immediately following the announcement, Liberty's trading volume and share price increased significantly. Based on Liberty's closing price on the day of the announcement, Finch had an unrealized profit of $117,854.

[10] Ultimately, Finch's Liberty shares were converted into shares of the successful bidder. He sold some of his shares in 2023, and the remaining shares about a month ago. Finch's total proceeds on the sales amounted to $7,336.27, meaning that he lost almost all of the $143,406 he invested.

[11] Subsection 76(1) of the *Securities Act* prohibits anyone who is in a special relationship with an issuer from purchasing securities of the issuer with knowledge of a material fact or a material change about the issuer that had not been generally disclosed. Finch admits that he was in a special relationship with Liberty and that he had knowledge of material facts about Liberty that had not been generally disclosed when he bought Liberty shares.

[12] The Commission and Finch have agreed to the following terms of settlement:

a. Finch must pay an administrative penalty of $235,000 and investigation costs of $22,336.27, both of which he has already paid;

b. with limited exceptions, Finch will be subject to ten-year restrictions on his ability to trade in securities or derivatives, or to acquire securities;

c. any exemptions contained in Ontario securities law shall not apply to Finch for a period of ten years;

d. Finch shall immediately resign any position that he holds as a director or officer of a reporting issuer, registrant or investment fund manager and may not be a director or officer of a reporting issuer, registrant, or investment fund manager for ten years; and

e. Finch is to be reprimanded.

[13] Finch's misconduct was serious. Insider trading is a fundamental abuse. It is unfair to other investors, and it erodes public confidence in the capital markets. Finch used information he gained through his employment for his personal benefit, contrary to his employer's policy, and contrary to Ontario securities law.

[14] Before today's hearing, we held a confidential conference with the parties. We had the opportunity to hear from the parties and to ask them questions about the settlement.

[15] Our role at today's hearing is to decide whether the negotiated settlement falls within a range of reasonable outcomes. In deciding whether to approve a settlement, the Tribunal respects the negotiation process and accords significant deference to the resolution reached by the parties. We do so in this case.

[16] We are confident that the sanctions against Mr. Finch will act as a specific deterrent to him, and as a general deterrent to others from trading while they are in possession of material non-public information.

[17] We note two mitigating factors. First, by settling this proceeding, Finch has accepted full responsibility for his conduct, and he has helped the Tribunal and the Commission avoid the costs associated with a contested hearing. Second, Finch has no history of misconduct with any securities regulator, and he has never been registered with a securities regulator.

[18] In conclusion, we find that the proposed settlement is reasonable and in the public interest. We will issue an order substantially in the form of the draft attached to the settlement agreement. With respect to the parties' agreement that there be a reprimand, these reasons constitute our formal disapproval of Finch's conduct.

Dated at Toronto this 26th day of March, 2025

"Tim Moseley"

"Andrea Burke"

"Jane Waechter"

# B. Ontario Securities Commission

## B.1
## Notices

### B.1.1 Notice of Commission Approval of OSC Rule 81-510 Dealer Rebates of Trailing Commissions

**NOTICE OF COMMISSION APPROVAL OF**
**OSC RULE 81-510**
***DEALER REBATES OF TRAILING COMMISSIONS***

April 3, 2025

**Introduction**

The Ontario Securities Commission (the **OSC**) has made OSC Rule 81-510 *Dealer Rebates of Trailing Commissions* (the **Rule**) in Ontario.

Under the OEO trailing commission ban,[1] which came into effect on June 1, 2022 (the **Effective Date**),

(a) investment fund managers (**IFMs**) are prohibited from paying trailing commissions where the dealer is not required to make a suitability determination in connection with a client's purchase and ongoing ownership of prospectus qualified mutual fund securities, and

(b) dealers are prohibited from soliciting or accepting trailing commissions from an IFM in connection with mutual fund securities held in an account of a client of the dealer if the dealer is not required to make a suitability determination, including, among others, order-execution only (**OEO**) dealers.

The Rule sets out the requirements for the use of dealer rebates of trailing commissions. The Rule is intended to codify the temporary exemptive relief issued on March 18, 2022, by Ontario Instrument 81-508 *Temporary Exemptions from the OEO Trailer Ban to Facilitate Dealer Rebates of Trailing Commissions and Client Transfers* (the **OSC Blanket Order**), which was then extended by OSC Rule 81-509 *Extension to Ontario Instrument 81-508 Temporary Exemptions from the OEO Trailer Ban to Facilitate Dealer Rebates of Trailing Commissions and Client Transfers* (**OSC Rule 81-509**).

The OSC Blanket Order and OSC Rule 81-509 provide temporary exemptive relief for OEO dealers and IFMs to facilitate dealer rebates of trailing commissions to clients holding mutual fund securities in OEO dealer accounts and to process client transfers. The OSC Blanket Order was in effect from June 1, 2022 to November 30, 2023 and was extended by OSC Rule 81-509 for an additional 18-month period from December 1, 2023 to May 31, 2025.

The text of the Rule is contained in Annex A of this notice and is also available on the OSC website at www.osc.ca.

**Substance and Purpose**

On June 1, 2022, the Canadian Securities Administrators (**CSA**) adopted amendments to National Instrument 81-105 *Mutual Fund Sales Practices* to implement the OEO trailing commission ban. The amendments comprise the CSA's policy response to the investor protection and market efficiency issues identified with the payment and acceptance of trailing commissions where no suitability determination was required.

To facilitate implementation of the OEO trailing commission ban, the CSA issued exemptive relief for IFMs and OEO dealers to facilitate dealer rebates of trailing commissions to clients holding mutual fund securities in OEO dealer accounts and to process client transfers.

To comply with the OEO trailing commission ban, IFMs and OEO dealers transitioned mutual fund securities held in OEO dealer accounts prior to the Effective Date for which trailing commissions are paid (**Current Holdings**) as follows:

(a) switched to a non-trailing commission paying class or series of the same mutual fund,

[1] CSA Notice of Amendments to National Instrument 81-105 *Mutual Fund Sales Practices* and Related Consequential Amendments - Prohibition of Mutual Fund Trailing Commissions Where No Suitability Determination Was Required (September 17, 2020): https://www.osc.ca/sites/default/files/2020-11/csa_20200917_81-105_mutual-fund-sales.pdf

(i) where the only difference is a lower management fee and where there are no tax consequences for effecting such a switch (a **Like-to-Like Switch**), or

(ii) where the only differences are a lower management fee and a difference in distribution policy and/or currency, and where there are no tax consequences for effecting such a switch (a **Like-to-Similar Switch**), or

(b) provided with a rebate by the IFM, equal to the amount of the trailing commission that would otherwise be paid by the IFM to the OEO dealer in respect of the client's trailing commission paying mutual fund securities, for as long as the client holds the securities in an OEO dealer account (a **Management Fee Rebate**), and

(c) where a Like-to-Like Switch or a Like-to-Similar Switch (each, a **Switch**) is not available or a Management Fee Rebate is not used, exemptive relief from the OEO trailing commission ban would be required to facilitate a rebate to a client by an OEO dealer, equal to the amount of the trailing commission paid by the IFM to the OEO dealer in respect of the client's trailing commission paying mutual fund securities, for as long as the client holds the trailing commission paying mutual fund securities in the OEO dealer account (a **Dealer Rebate**), which would result in a better outcome for a client compared to a redemption, which may have tax consequences.

For client-initiated transfers of trailing commission paying mutual fund securities to OEO dealers on or after the Effective Date (**Client Transfers**), where a Switch or a Management Fee Rebate is not available or used, respectively, or where a Switch is available but the trailing commission paying mutual fund securities remain subject to a redemption fee under a deferred sales charge option (**DSC**), exemptive relief from the OEO trailing commission ban would be required to facilitate a Dealer Rebate, which would result in a better outcome for a client, compared to a redemption or payment of a DSC redemption fee.

As Client Transfers are largely a manual process, OEO dealers and IFMs require a period of up to 45 days (the **Grace Period**), during which exemptive relief from the OEO trailing commission ban would be required, in order for the OEO dealer to determine whether a Switch is available, or a Management Fee Rebate can be used, or failing which, provide a Dealer Rebate, which would result in a better outcome for a client compared to a redemption or payment of a DSC redemption fee. During the Grace Period, a Switch will generally be executed by OEO dealers within 15 days of the date of the Client Transfer, following which, within the remaining 30 days of the Grace Period, the OEO dealer will assess whether the Switch has been properly processed, failing which the OEO dealer will take action to ensure the relevant switch is properly processed. Any trailing commissions paid by IFMs in respect of the Client Transfers and accepted by OEO dealers during the Grace Period will be rebated to the client by way of a Dealer Rebate.

OSC Rule 81-509 will cease to be effective on May 31, 2025. However, the exemptive relief in OSC Rule 81-509 is still required after May 31, 2025 because:

(a) for Current Holdings where a Switch or a Management Fee Rebate was not available or used, respectively, a Dealer Rebate should continue to be provided for a client, which is a better outcome for the client compared to a redemption, which may have tax consequences,

(b) for Client Transfers:

(i) a Grace Period should continue to be provided for the OEO dealer to determine whether a Switch is available, or a Management Fee Rebate can be used, or failing which, provide a Dealer Rebate, which is a better outcome for a client compared to a redemption, which may have tax consequences, or payment of a DSC redemption fee, if applicable,

(ii) for the OEO dealer to provide a Dealer Rebate to a client for the Grace Period, and

(iii) for the OEO dealer to provide a Dealer Rebate to a client after the Grace Period, for as long as the client holds the securities in an OEO dealer account, where a Switch or a Management Fee is not available or used, respectively, or where a Switch is available but the trailing commission paying mutual fund securities remain subject to a redemption fee under a DSC option.

The temporary exemptive relief provided by the OSC Blanket Order and OSC Rule 81-509 cannot be subject to a further extension under Ontario securities laws. Without the Rule, there would be an unlevel playing field for IFMs and OEO dealers in Ontario as equivalent blanket orders issued by the other CSA jurisdictions continue to be in effect and are either (a) not subject to an expiration date or (b) subject to an expiration date but can be further extended.

**Authority for the Rule**

The following provisions of the *Securities Act* (Ontario) (the **Act**) provide the Commission with authority to adopt the Rule:

- Subparagraph 143(1)2(ii) of the Act authorizes the Commission to make rules prescribing requirements for registrants including requirements that are advisable for the prevention or regulation of conflicts of interest;

- Paragraph 143(1)13 of the Act authorizes the Commission to make rules regulating trading or advising in securities to prevent trading or advising that is, among other things, unfairly detrimental to investors;

- Paragraph 143(1)31 of the Act authorizes the Commission to make rules regulating investment funds and the distribution and trading of the securities of investment funds, including

    - making rules varying Part XV (Prospectuses – Distribution) or Part XVIII (Continuous Disclosure) by prescribing additional disclosure requirements in respect of investment funds and requiring or permitting the use of particular forms or types of additional offering or other documents in connection with the funds (subparagraph (i)); and

    - making rules prescribing procedures applicable to investment funds, registrants and any other person or company in respect of sales and redemptions of investment fund securities (subparagraph (xi)); and

- Paragraph 143.2(5)(b) of the Act authorizes that publication of a notice is not required if the proposed rule grants an exemption or removes a restriction and is not likely to have a substantial effect on the interests of persons or companies other than those who benefit under it.

**Delivery of the Rule to the Minister**

The OSC delivered the Rule to the Minister of Finance on or about April 3, 2025. The Minister may approve or reject the Rule or return it for further consideration. If the Minister approves the Rule or does not take any further action, the Rule will come into force on the earlier of 15 days after Ministerial approval or June 17, 2025.

**Questions**

Please refer any questions to the following OSC staff:

Irene Lee
Senior Legal Counsel
Investment Management Division
Ontario Securities Commission
416-593-3668
ilee@osc.gov.on.ca

Stephen Paglia
Manager
Investment Manager Division
Ontario Securities Commission
416-593-2393
spaglia@osc.gov.on.ca

**ANNEX A**

**OSC Rule 81-510**
***Dealer Rebates of Trailing Commissions***

**PART 1 – DEFINITIONS, INTERPRETATION AND APPLICATION**

**1.1 Definitions** – In this Instrument,

"client" means a client of an OEO dealer;

"client transfer" means a client-initiated transfer of trailing commission paying mutual fund securities to an OEO dealer;

"dealer rebate" means a rebate to a client by an OEO dealer, equal to the amount of the trailing commissions paid by the manager to the OEO dealer in respect of the client's trailing commission paying mutual fund security, for as long as the client holds the trailing commission paying mutual fund security in the OEO dealer account;

"DSC redemption fee" means a redemption fee payable by a client to a manager upon the redemption of mutual fund securities purchased under a deferred sales charge option;

"grace period" means a period of up to 45 days from the date of a client transfer;

"like-to-like switch" means a switch, initiated by a manager or an OEO dealer, of a mutual fund security held in an OEO dealer account from a trailing commission paying class or series to a non-trailing commission paying class or series of the same mutual fund, where the only difference is a lower management fee for the non-trailing commission paying class or series, and where there are no tax consequences for effecting such a switch;

"like-to-similar switch" means a switch, initiated by a manager or an OEO dealer, of a mutual fund security held in an OEO dealer account from a trailing commission paying class or series to a non-trailing commission paying class or series of the same mutual fund, where the only differences are a lower management fee for the non-trailing commission paying class or series, and a difference in distribution policy and/or currency, and where there are no tax consequences for effecting such a switch;

"management fee rebate" means a rebate to a client by a manager, equal to the amount of the trailing commissions that would otherwise be paid by the manager to the OEO dealer in respect of the client's trailing commission paying mutual fund security, for as long as the client holds the trailing commission paying mutual fund security in an OEO dealer account;

"OEO dealer" means a participating dealer that is not required to make a suitability determination, including a participating dealer offering order execution only accounts;

"OEO trailing commission ban" means the prohibitions in subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices*; and

"prior holding" means trailing commission paying mutual fund securities that were purchased by a client of an OEO dealer prior to June 1, 2022, and for which a like-to-like switch, a like-to similar switch and a management fee rebate are not available or cannot reasonably be executed.

**1.2 Interpretation** – Terms defined in the *Securities Act* (Ontario), Multilateral Instrument 11-102 *Passport System*, National Instrument 14-101 *Definitions*, National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, National Instrument 81-102 *Investment Funds* and National Instrument 81-105 *Mutual Fund Sales Practices* have the same meaning in this Instrument.

**1.3 Application** – This Instrument applies to

(a) a distribution of securities of a mutual fund that offers or has offered securities under a prospectus or simplified prospectus for so long as the mutual fund remains a reporting issuer, including prior holdings, and

(b) a person or company in respect of activities pertaining to a mutual fund referred to in paragraph (a).

**PART 2 – DEALER REBATES OF TRAILING COMMISSIONS**

**2.1 Prior Holdings** – Subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices* do not apply to dealer rebates provided in connection with prior holdings if the requirements of this Instrument are complied with.

**2.2 Grace Period for Client Transfers** – Subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices* do not apply to a client transfer for the grace period if

(a) the client transfer is processed in the following manner:

(i) a manager will identify whether a like-to-like switch is available, or if no like-to-like switch is available, whether a like-to-similar switch is available, or whether a management fee rebate should be used;

(ii) if a manager has identified a like-to-like switch or a like-to-similar switch, the OEO dealer will execute the like-to-like switch or the like-to-similar switch;

(iii) if a manager has identified that a management fee rebate can be used, the manager will provide a management fee rebate;

(iv) if a like-to-like switch and a like-to-similar switch are not available and a management fee rebate is not used, or if a like-to-like switch or a like-to-similar switch is available and a management fee rebate is not used but the trailing commission paying mutual fund securities remain subject to a DSC redemption fee, the OEO dealer will provide a dealer rebate;

(b) once the client transfer has been executed, but within the grace period, the OEO dealer must assess whether a like-to-like switch or a like-to-similar switch, if available, has been properly processed, failing which the OEO dealer will take action to ensure the relevant switch is properly processed;

(c) the OEO dealer provides a dealer rebate to the client for any trailing commissions paid by a manager to the OEO dealer during the grace period.

**2.3** **Client Transfers** – Subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices* do not apply to dealer rebates provided in connection with client transfers after the grace period if a management fee rebate is not used, and either of the following apply:

(a) a like-to-like switch is not available and a like-to-similar switch is not available;

(b) the trailing commission paying mutual fund securities remain subject to a DSC redemption fee.

**2.4** **Payment** – Any OEO dealer providing dealer rebates for prior holdings pursuant to section 2.1 of this Instrument or for client transfers pursuant to sections 2.2 and 2.3 of this Instrument must pay a dealer rebate to its impacted clients in an amount equal to the amount of the trailing commissions received from the manager on at least a quarterly basis.

**2.5** **Closed Accounts** – If a client closed an account prior to the payment of a dealer rebate in connection with a prior holding or a client transfer and the OEO dealer cannot locate the client, then the OEO dealer must do all of the following:

(a) donate the dealer rebate to a registered charity within 12 months of receipt of the trailing commissions by the OEO dealer, where permitted by applicable laws;

(b) keep a record of the amount and dates of donations to a registered charity in respect of such prior holdings and client transfers, and the name and charity registration number of each registered charity that received such donations;

(c) upon request, provide the records in paragraph (b) above to the Investment Management Division by email at IMDivision@osc.gov.on.ca.

**2.6** **Forced Redemptions** – (1) For prior holdings, an OEO dealer or a manager must not redeem a client's mutual fund securities for which trailing commissions are paid without client consent or instruction, in order for an OEO dealer or a manager to comply with subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices*.

(2) For client transfers, an OEO dealer or a manager must not redeem a client's mutual fund securities for which trailing commissions are paid without client consent or instruction, or charge a DSC redemption fee, in order for an OEO dealer or a manager to comply with subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices*.

**2.7** **Fees** – (1) For prior holdings, an OEO dealer must not charge any fees to clients in connection with dealer rebates initiated by an OEO dealer.

(2) For client transfers, an OEO dealer or a manager must not charge any fees to clients in connection with like-to-like switches, like-to-similar switches, management fee rebates or dealer rebates initiated by an OEO dealer or a manager, as applicable.

## PART 3 – COMMUNICATIONS

**3.1** **Communications for Client Transfers** – (1) OEO dealers must provide clients making client transfers with written notice of all of the following information on the form for client transfers or on a document provided during the process to onboard new accounts:

(a) how client transfers are processed in accordance with paragraph 2.2(a) of this Instrument and an explanation of how the client transfer process may impact the client;

(b) an explanation that the client transfer process in paragraph 2.2(a) of this Instrument is due to OEO trailing commission ban, which took effect on June 1, 2022;

(c) a brief explanation that the OEO trailing commission ban means that trailing commission paying mutual fund securities should not be transferred to OEO dealer accounts;

(d) an explanation that if no like-to-like switch or like-to-similar switch is available and no management fee rebate is used, or if such a like-to-like switch or a like-to-similar switch is available but the trailing commission paying mutual fund securities remain subject to a DSC redemption fee, the OEO dealer will provide a dealer rebate;

(e) an explanation that any like-to-like switch or a like-to-similar switch will be reflected in the client's next account statement and the client will receive a trade confirmation promptly following any like-to-like switch or like-to-similar switch;

(f) the client's trade confirmation, account statement or transaction history will name the class or series of the non-trailing commission paying mutual fund that is held by the client after the like-to-like switch or like-to-similar switch, and any dealer rebate;

(g) an explanation of how to obtain further information about their mutual fund securities, including how to obtain a copy of the fund facts document for the relevant class or series held by the client after a like-to-like switch or a like-to-similar switch, and that the fund facts document will not be delivered unless requested;

(h) a statement about the dealer rebate, how the dealer rebate is calculated, the frequency of payment of the dealer rebate, and that the client's account statement will identify any dealer rebate payment the client received;

(i) a statement that client transfers that are subject to a dealer rebate will have access to information on the OEO dealer's website;

(j) the OEO dealer contact and resource information for the client to obtain further information.

(2) OEO dealers must make available to clients on their website all of the following information about dealer rebates:

(a) a client transfer is subject to a dealer rebate if a like-to-like switch and a like-to-similar switch are not available, and a management fee rebate is not used;

(b) an explanation about why a dealer rebate is provided, how the dealer rebate is calculated, the frequency of payment of the dealer rebate, and that the client's account statement will identify any dealer rebate payment the client received;

(c) the OEO dealer contact information for the client to obtain further information.

**3.2** **Inquiries** – (1) Any OEO dealer providing dealer rebates pursuant to sections 2.1, 2.2 and 2.3 of this Instrument must address clients' questions with respect to the implementation of the OEO trailing commission ban, including like-to-like switches, like-to-similar switches and dealer rebates for prior holdings and client transfers.

(2) Any manager facilitating like-to-like switches, like-to-similar switches and management fee rebates for client transfers pursuant to sections 2.1 and 2.3 of this Instrument must address clients' questions with respect to the implementation of the OEO trailing commission ban, including like-to-like switches, like-to-similar switches and management fee rebates for prior holdings and client transfers.

## PART 4 – RECORDS

**4.1** **Records** – (1) Any OEO dealer relying on section 2.1 of this Instrument to provide dealer rebates for prior holdings must keep a record of the actions taken for each prior holding.

(2) Any OEO dealer relying on section 2.2 of this Instrument to process client transfers must keep a record of the actions taken for each client transfer.

(3) Any OEO dealer providing dealer rebates for client transfers must keep a record of the dealer rebates provided for each client transfer.

(4) Any manager paying trailing commissions to OEO dealers for dealer rebates for client transfers must keep a record of the actions taken for each client transfer.

**4.2** **Reporting** – (1) Upon request, an OEO dealer must provide any of the records required to be kept under subsections 4.1(1), 4.1(2) and 4.1(3) of this Instrument to the Investment Funds Division at the Ontario Securities Commission by email at IMDivision@osc.gov.on.ca.

(2) Upon request, a manager must provide any of the records required to be kept under subsection 4.1(4) of this Instrument to the Investment Funds Division at the Ontario Securities Commission by email at IMDivision@osc.gov.on.ca.

**PART 5 – EXEMPTION**

**5.1** **Exemption** – The Director may grant an exemption from the provisions of this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

**PART 6 – EFFECTIVE DATE**

**6.1** **Effective Date** – This Instrument comes into force on the earlier of 15 days after Ministerial approval or June 17, 2025.

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# B.2
# Orders

### B.2.1 Lucero Energy Corp.

**Headnote**

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

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c.S.5, as am., s. 1(10)(a)(ii).

**Citation:** *Re Lucero Energy Corp.*, 2025 ABASC 27

**March 26, 2025**

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

**AND**

**IN THE MATTER OF**
**THE PROCESS FOR CEASE TO BE**
**A REPORTING ISSUER APPLICATIONS**

**AND**

**IN THE MATTER OF**
**LUCERO ENERGY CORP.**
**(the Filer)**

**ORDER**

**Background**

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

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

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

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

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

**Interpretation**

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

**Representations**

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

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

2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and

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

**Order**

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.

"Timothy Robson"
Manager, Legal
Corporate Finance
Alberta Securities Commission

OSC File #: 2025/0133

### B.2.2 Quisitive Technology Solutions, ULC

**Headnote**

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

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).

**April 1, 2025**

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

**AND**

**IN THE MATTER OF**
**THE PROCESS FOR CEASE TO BE**
**A REPORTING ISSUER APPLICATIONS**

**AND**

**IN THE MATTER OF**
**QUISITIVE TECHNOLOGY SOLUTIONS, ULC**
**(the Filer)**

**ORDER**

**Background**

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

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

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

b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec, Saskatchewan and Yukon.

**Interpretation**

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

**Representations**

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

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

2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and

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

**Order**

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

The decision of the principal regulator under the Legislation is that the Order Sought is granted.

"David Surat"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2025-0146

# B.3
# Reasons and Decisions

### B.3.1 Next Edge Capital Corp. et al.

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted under subsection 62(5) of the Securities Act to permit the extension of a prospectus lapse date by 178 days to facilitate the consolidation of the Fund's prospectus with the prospectus of other funds under common management – No conditions.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 62(5).

**March 24, 2025**

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

**AND**

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

**AND**

**IN THE MATTER OF**
**NEXT EDGE CAPITAL CORP.**
**(the Filer)**

**AND**

**CMP NEXT EDGE RESOURCE CORP.**
**(the Fund)**

**AND**

**NEXT EDGE BIOTECH AND**
**LIFE SCIENCES OPPORTUNITIES FUND**

**NEXT EDGE STRATEGIC METALS AND**
**COMMODITIES FUND**

**VERITAS NEXT EDGE PREMIUM YIELD FUND**
**(the Other Funds)**
**(the Fund and the Other Funds**
**collectively referred to as the Funds)**

**DECISION**

**Background**

The Ontario Securities Commission (the **Principal Regulator**) in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the Principal Regulator (the **Legislation**) that the time limits for the renewal of the simplified prospectus of the Fund with a current lapse date of April 26, 2025 be extended to the time limits that would be applicable as if the lapse date of the simplified prospectus of the Fund was October 21, 2025, in order for the lapse date of the simplified prospectus of the Fund to align with the lapse date of the simplified prospectus of the Other Funds (the **Exemption Sought**).

In accordance with subsection 4.7(2) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**), the Filer has provided notice to the Principal Regulator that subsection 4.7(1) of MI 11-102 is intended to be relied upon by the Filer and the Fund in each of the other provinces and territories of Canada.

**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 Filer is the manager and the advisor of the Fund. The Filer is a corporation incorporated under the laws of Canada. The Filer's registered head office is located in Toronto, Ontario.

2. On December 30, 2024, the Filer entered into an assignment and assumption agreement pursuant to which the management agreement in respect of the Fund was assigned to the Filer by Goodman & Company, Investment Counsel.

3. The Filer is also the manager of the Other Funds, which are offered in each of the Jurisdictions under a simplified prospectus with a lapse date of October 21, 2025.

4. The Filer is registered as (a) a portfolio manager in Ontario and Alberta, (b) an investment fund manager in Ontario, Quebec and Newfoundland and Labrador and (c) an exempt market dealer in all Jurisdictions other than Prince Edward island.

5. The Filer and the Fund are not in default of any of the requirements of the Legislation.

6. The Fund is a mutual fund organized as a class of shares of CMP Next Edge Resource Corp., a corporation governed by the laws of the Province of Ontario and is a reporting issuer as defined in the securities legislation of each of the Jurisdictions.

7. The Fund currently distributes securities in the Jurisdictions under the simplified prospectus dated April 26, 2024 as amended on December 9, 2024 and January 9, 2025 (**Amendment No. 2**) (the **Current Prospectus**).

8. Pursuant to the Legislation, the lapse date for the distribution of securities under the Prospectus is April 26, 2025.

9. Pursuant to the Legislation, in order to renew the Current Prospectus the following matters (among others) are required in order for the Fund to be eligible to rely on the provisions deeming continuous prospectus qualification contained in section 2.5(4) of National Instrument 81-101 Mutual Fund Prospectus Disclosure and section 62(2) of the Securities Act (Ontario): (i) the Fund files a pro forma simplified prospectus at least 30 days prior to the Lapse Date; (ii) the final simplified prospectus is filed no later than 10 days after the Lapse Date; and (iii) a receipt for the final simplified prospectus is obtained within 20 days of the Lapse Date.

10. The Filer wishes to combine the Current Prospectus with the simplified prospectus of the Other Funds in order to reduce renewal, printing and related costs and intends to file the pro forma simplified prospectus and final simplified prospectus of the Fund and the Other Funds as though the lapse date of such funds is October 21, 2025.

11. There have been no material changes in the affairs of the Fund since the date of Amendment No. 2. Accordingly, the Current Prospectus and current fund facts document(s) of the Fund continue to provide accurate information regarding the Fund.

12. The Exemption Sought will not affect the accuracy of the information contained in the Current Prospectus or the fund facts document(s) of the Fund and therefore will not be prejudicial to the public interest.

13. Given the disclosure obligations of the Filer and the Fund, should any material change in the business, operations or affairs of the Fund occur, the Current Prospectus and current fund facts document(s) of the Fund will be amended as required under the securities legislation of the Jurisdictions.

14. New investors of the Fund will receive delivery of the most recently filed fund facts document(s) of the Fund. The Current Prospectus of the Funds will remain available to investors upon request.

15. If the Exemption Sought is not granted, it will be necessary to renew the Current Prospectus twice within a short period of time in order to consolidate the Current Prospectus with the simplified prospectus of the Other Funds, and it would be unreasonable for the Filer to incur the costs and expenses associated therewith, given investors would not be prejudiced by the Exemption Sought.

**Decision**

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

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

“Darren McKall”
Manager, Investment Management Branch
Ontario Securities Commission

Application File #: 2025/0129
SEDAR+ File #: 6249842

### B.3.2 Volatus Aerospace Corp. and Volatus Aerospace Inc.

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for wholly-owed subsidiary (Subsidiary) of parent company (Parent) for a decision exempting Subsidiary from Continuous Disclosure Requirements and insiders of Subsidiary from Insider Reporting Requirements subject to terms and conditions – Subsidiary is a reporting issuer and has certain convertible securities outstanding; convertible securities entitle securityholders to acquire common shares of Parent; convertible securities do not qualify as "designated exchangeable securities" under exemption in section 13.3 of NI 51-102; and relief granted on conditions substantially similar to the conditions contained in section 13.3 of NI 51-102.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 107 and 121(2)(a)(ii).
National Instrument 51-102 Continuous Disclosure Obligations, ss. 13.1 and 13.3.
National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, s. 8.6.
National Instrument 55-102 System for Electronic Disclosure by Insiders, s. 6.1.
National Instrument 55-104 Insider Reporting Requirements and Exemptions, s. 10.1.

**March 27, 2025**

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

**AND**

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

**AND**

**IN THE MATTER OF**
**VOLATUS AEROSPACE CORP.**
**(Volatus)**
**AND**
**VOLATUS AEROSPACE INC.**
**(formerly Drone Delivery Canada Corp.)**
**(DDC, and together with Volatus, the Filers)**

**DECISION**

**Background**

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

- the continuous disclosure requirements under the Legislation including the requirements of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) (together, the **Continuous Disclosure Requirements**) do not apply to Volatus;

- the requirements of National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109**) (the **Certification Requirements**) do not apply to Volatus; and
- the insider reporting requirements under the Legislation including the requirements of National Instrument 55-104 *Insider Reporting Requirements and Exemptions* and the requirement to file an insider profile under National Instrument 55-102 *System for Electronic Disclosure by Insiders* (together, the **Insider Reporting Requirements**) do not apply to any insider of Volatus.

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

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

**Interpretation**

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 Filers:

***Volatus***

1. Volatus is a corporation existing under the *Business Corporations Act* (Ontario) (the **OBCA**).

2. Volatus is a reporting issuer in all of the provinces and territories of Canada.

3. The authorized capital of Volatus consists of an unlimited number of common shares (**Volatus Shares**) and an unlimited number of Class A preferred shares (**Volatus Preferred Shares**).

4. As of May 20, 2024, Volatus had 11,741,034 warrants to purchase Volatus Shares that were listed on the TSX Venture Exchange (the **TSXV**) under the trading symbol "VOL.WT.A" with an expiry date of October 6, 2024 (the **Listed Volatus Warrants**) issued pursuant to a warrant indenture between Volatus and TSX Trust Company (**TSX Trust**) dated October 6, 2022. The Listed Warrants have now expired.

5. As of May 20, 2024, Volatus also had:

   (i) unlisted warrants outstanding to purchase an aggregate of 3,947,335 Volatus Shares (the **Unlisted Volatus Warrants**, and together with the Listed Volatus Warrants, the **Volatus Warrants**);

   (ii) options outstanding to purchase an aggregate of 8,067,691 Volatus Shares (the **Volatus Options**);

   (iii) principal amount of $2,646,000 in senior unsecured convertible debentures convertible into Volatus Shares at $0.50 per share (the **Volatus Debentures**) issued pursuant to a debenture indenture between Volatus and TSX Trust dated May 11, 2023 as amended (the **Debenture Indenture**); and

   (iv) 206,188 Volatus Preferred Shares.

6. In connection with the closing of the Arrangement (as defined below), effective as of the close of business on September 4, 2024, the Volatus Shares were de-listed from the TSXV.

7. The Listed Volatus Warrants traded on the TSXV as Volatus Warrants under their existing trading symbol and remained listed on the TSXV as securities of Volatus, until their expiry on October 6, 2024.

***DDC***

8. DDC is a limited company existing under the *Business Corporations Act* (British Columbia) (the **BCBCA**).

9. DDC is a reporting issuer in all of the provinces of Canada.

10. The authorized capital of DDC consists of an unlimited number of common voting shares (**DDC Common Shares**) and an unlimited number of variable voting shares (**DDC Variable Voting Shares**, together with the DDC Common Shares, the **DDC Shares**).

11. As of May 20, 2024, there were issued and outstanding: (i) 224,199,312 DDC Shares; and (ii) options to purchase an aggregate of 9,056,669 DDC Shares.

12. The DDC Shares are listed on the TSXV under the symbol "FLT".

***The Plan of Arrangement***

13. DDC and Volatus entered into a business combination agreement on May 20, 2024, which provided the terms and conditions under which DDC would acquire all of the issued and outstanding Volatus Shares by way of a court-approved plan of arrangement under the OBCA (the **Arrangement**).

14. Under the Arrangement, in exchange for each Volatus Share, DDC issued to shareholders of Volatus (**Volatus Shareholders**) 1.785 DDC Shares for each Volatus Share held (the **Share Consideration**), subject to the terms of the Arrangement.

15. As a result of the Arrangement, Volatus became a wholly-owned subsidiary of DDC.

16. On July 10, 2024, Volatus obtained an interim order from the Ontario Superior Court of Justice (Commercial List) (the **Court**) specifying certain requirements and procedures for an annual and special meeting of the Volatus Shareholders for the purpose of, among other things, approving the Arrangement (**Volatus Meeting**).

17. In connection with the Arrangement and pursuant to the interim order from the Court, Volatus delivered to Volatus Shareholders and holders of Volatus Warrants, Volatus Debentures and Volatus Options a joint management information circular of Volatus and DDC dated July 12, 2024 containing prospectus-level disclosure of the business and affairs of each of Volatus and DDC and information on the Plan of Arrangement, a copy of which has been posted on SEDAR+ under Volatus and DDC's respective profiles.

18. On August 23, 2024, Volatus Shareholders approved the Arrangement with an affirmative vote of 99.99% of the votes cast by holders of Volatus Shares eligible to vote the Volatus Meeting.

19. On August 27, 2024, Volatus received a final order of the Court approving the Arrangement.

20. The Arrangement was completed on August 30, 2024; under the Arrangement, among other things, the following occurred:

    (a) all Volatus Shares, other than Volatus Shares held by any Dissenting Shareholder (as defined in the Plan of Arrangement), were exchanged by the holders thereof, without any further act or formality for the Share Consideration;

    (b) Volatus Shares held by Dissenting Shareholders in respect of which Dissent Rights (as defined in the Plan of Arrangement) have been validly exercised were deemed to have been transferred by such Dissenting Shareholders to DDC;

    (c) each Volatus Option outstanding prior to the Effective Time was exchanged for an option to acquire from DDC (each a **New DDC Option**) the number of DDC Shares equal to (A) the number of Volatus Shares subject to such Volatus Option immediately prior to the Effective Time, multiplied by (B) 1.785, rounded down to the nearest whole number of DDC Shares, at an exercise price equal to the quotient obtained by dividing: (X) the exercise price per Volatus Share subject to such Volatus Option immediately before the Effective Time, by (Y) 1.785, provided that the aggregate exercise price payable on any particular exercise of New DDC Options was rounded up to the nearest whole cent;

    (d) each Volatus Warrant remained outstanding as warrants of Volatus that upon exercise entitle the holder thereof to receive in lieu of each Volatus Share to which such holder was theretofore entitled upon exercise of such Volatus Warrants, the Share Consideration;

    (e) each outstanding convertible debenture of Volatus (**Volatus Debenture**) prior to the Effective Time was continued on the same terms and conditions as were applicable immediately prior to the Effective Time, except that the terms of the Volatus Debentures were amended so as to substitute for the Volatus Shares subject to such Volatus Debentures such number of DDC Common Shares equal to (A) the number of Volatus Shares into

which such Volatus Debentures may be convertible immediately prior to the Effective Time, multiplied by (B) 1.785, rounded down to two decimal places; and

(f) all Class A preferred shares of Volatus outstanding immediately prior to the Effective Time were unaffected by the Plan of Arrangement.

21. On September 3, 2024, the TSXV approved the listing of the DDC Shares to be issued as a result of the Arrangement (including those DDC Shares issuable upon exercise or conversion of the Volatus Warrants, the Volatus Debenture and the New DDC Options).

22. On September 4, 2024, the Volatus Shares were delisted from the TSXV.

23. On October 6, 2024, the Listed Volatus Warrants expired and ceased to be listed on the TSXV.

24. In connection with the Arrangement, Volatus, DDC and TSX Trust entered into a supplemental indenture to the Debenture Indenture, pursuant to which DDC assumed all of the obligations of Volatus under the Volatus Debentures and the Debenture Indenture, including the performance and observation of every covenant of Volatus, the obligation to repay principal and pay interest on the Volatus Debentures and the obligation to issue shares of DDC upon the conversion of the Volatus Debentures.

25. As a result of the Arrangement and as of the date hereof, the only securities of Volatus that are held by persons other than DDC are the outstanding Unlisted Volatus Warrants and Volatus Debentures, which are exercisable for or convertible into, as applicable, the Share Consideration, and the Volatus Preferred Shares, which are redeemable for cash.

26. As a result of the Arrangement and as of the date hereof, there are no securities of Volatus that are traded on a marketplace (as defined in National Instrument 21-101 *Marketplace Operation)*.

27. As required by the terms of the warrant indenture dated Volatus and TSX Trust Company dated May 11, 2023 (the **Warrant Indenture**), DDC and Volatus have entered into a supplemental warrant indenture with TSX Trust Company with respect to the Listed Volatus Warrants.

28. The Warrant Indenture governing certain of the Unlisted Volatus Warrants includes a covenant that Volatus will use commercially reasonable efforts to maintain its status as a reporting issuer not in default of the requirements of the securities laws in each of the jurisdictions in Canada of which it is a reporting issuer.

29. The Warrant Indenture does not require Volatus to deliver to holders of certain Unlisted Volatus Warrants any continuous disclosure materials of Volatus.

30. None of the Filers is in default of any of its respective obligations under securities legislation in the jurisdictions in which it is a reporting issuer, other than Volatus, which issuer is currently in default of the requirement to prepare and file, on or before, November 29, 2024, interim financial statements, management's discussion and analysis and related certificates for the period ending September 30, 2024.

31. Volatus cannot rely on the exemption available in s. 13.3 of NI 51-102 for issuers of exchangeable securities because the Volatus Warrants are not "designated exchangeable securities" as defined in NI 51-102.

32. None of the holders of the Volatus Warrants will have voting rights in respect of DDC in their capacity as warrantholders.

33. Volatus has no intention of accessing the capital markets in the future by issuing any further securities to the public and has no intention of issuing any securities to the public other than those that are outstanding on completion of the Arrangement.

34. It is information relating to DDC, and not to Volatus, that is of primary importance to holders of Volatus Warrants as outstanding Volatus Warrants are exercisable for the Share Consideration. In addition, as Volatus is a wholly-owned subsidiary of DDC, DDC will consolidate Volatus with DDC for the purposes of its financial statement reporting. As such, the disclosure required by the Continuous Disclosure Requirements and the Insider Reporting Requirements applicable to Volatus would not be meaningful or of any significant benefit to the holders of the Volatus Warrants and would impose a significant cost on Volatus.

**Decision**

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

1. The decision of the Decision Maker under the Legislation is that the Continuous Disclosure Requirements do not apply to Volatus provided that and for so long as:

   (a) DDC is the beneficial owner of all of the issued and outstanding voting securities of Volatus;

   (b) DDC is a reporting issuer in a designated Canadian jurisdiction (as defined in NI 51-102) and has filed all documents it is required to file under NI 51-102;

   (c) Volatus does not issue any securities, and does not have any securities outstanding other than:

      (i) the Unlisted Volatus Warrants, the Volatus Debentures and the Volatus Preferred Shares;

      (ii) securities issued to and held by DDC or an affiliate of DDC;

      (iii) debt securities issued to and held by banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions; or

      (iv) securities issued under the exemption from the prospectus requirement in section 2.35 [*Short-term debt*] of National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**);

   (d) Volatus files in electronic format:

      (i) if DDC is a reporting issuer in the local jurisdiction, a notice indicating that it is relying on the continuous disclosure documents filed by DDC and setting out where those documents can be found in electronic format; or

      (ii) copies of all documents DDC is required to file under securities legislation, other than in connection with a distribution, at the same time as the filing by DDC of those documents with a securities regulatory authority or regulator;

   (e) DDC concurrently sends to all holders of any Unlisted Volatus Warrants all disclosure materials that would be required to be sent to holders of similar warrants of DDC in the manner and at the time required by securities legislation;

   (f) DDC complies with securities legislation in respect of making public disclosure of material information on a timely basis;

   (g) DDC immediately issues in Canada and files any news release that discloses a material change in its affairs; and

   (h) Volatus issues in Canada a news release and files a material change report in accordance with Part 7 of NI 51-102 for all material changes in respect of the affairs of Volatus that are not also material changes in the affairs of DDC.

2. The further decision of the Decision Makers under the Legislation is that the Certification Requirements do not apply to Volatus provided that:

   (a) Volatus is not required to, and does not, file its own Interim Filings and Annual Filings (as those terms are defined under NI 52-109);

   (b) Volatus files in electronic format under its SEDAR+ profile either: (i) copies of DDC's annual certificates and interim certificates at the same time as DDC is required under NI 52-109 to file such documents; or (ii) a notice indicating that it is relying on DDC's annual certificates and interim certificates and setting out where those documents can be found for viewing on SEDAR+; and

   (c) Volatus is exempt from or otherwise not subject to the Continuous Disclosure Requirements and Volatus and DDC are in compliance with the conditions set out in paragraph 1 above.

3. The further decision of the Decision Makers under the Legislation is that the Insider Reporting Requirements do not apply to any insider of Volatus in respect of securities of Volatus provided that:

   (a) if the insider is not DDC:

(i) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning Volatus before the material facts or material changes are generally disclosed; and

(ii) the insider is not an insider of DDC in any capacity other than by virtue of being an insider of Volatus;

(b) DDC is the beneficial owner of all of the issued and outstanding voting securities of Volatus;

(c) if the insider is DDC, the insider does not beneficially own any Unlisted Volatus Warrants other than securities acquired through the exercise of the Unlisted Volatus Warrants and not subsequently traded by the insider;

(d) DDC is a reporting issuer in a designated Canadian jurisdiction;

(e) Volatus has not issued any securities, and does not have any securities outstanding, other than:

(i) the Unlisted Volatus Warrants, the Volatus Debentures and the Volatus Preferred Shares;

(ii) securities issued to and held by DDC or an affiliate of DDC;

(iii) debt securities issued to and held by banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions; or

(iv) securities issued under the exemption from the prospectus requirement in section 2.35 [*Short-term debt*] of NI 45-106; and

(f) Volatus is exempt from or otherwise not subject to the Continuous Disclosure Requirements and Volatus and DDC are in compliance with the conditions set out in paragraph 1 above.

"Lina Creta"
Manager, Corporate Finance Division
Ontario Securities Commission

OSC File #: 2024/0504

### B.3.3 Northfront Financial Inc. and The Top Funds

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief to extend the timeline for a pooled fund who obtained a previous decision to continue to file and deliver annual financial statements from 90 to 180 days – fund invests primarily in underlying pooled funds that do not have comparable reporting deadlines – additional time needed to incorporate financial statements of underlying funds into top fund – relief subject to conditions.

**Applicable Legislative Provisions**

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.2, 5.1(2)(a) and 17.1.

**March 28, 2025**

**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**
**NORTHFRONT FINANCIAL INC.**
**(the Filer)**

**AND**

**THE TOP FUND**
**(as defined below)**

**DECISION**

**Background**

The principal regulator in the Jurisdiction has received an application from the Filer, as investment fund manager of the Northfront Alternative Asset Fund (the **Top Fund**), as a mutual fund that is not and will not be a reporting issuer, and that may invest in underlying funds (the **Underlying Funds**) as part of its investment strategy, for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer and the Top Fund from:

(a) the requirement in section 2.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) that the Top Fund file its audited annual financial statements and auditor's report on or before the 90th day after the Top Fund's most recently completed financial year (the **Annual Filing Deadline**); and

(b) the requirement in paragraph 5.1(2)(a) of NI 81-106 that the Top Fund deliver its annual financial statements on or before the 90th day after the Top Fund's most recently completed financial year (the **Annual Delivery Requirement**)

(collectively, the **Requested Relief**).

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

(a) the Ontario Securities Commission is the principal regulator for this application because the Filer is not seeking exemptive relief in Alberta and Ontario is the only other jurisdiction where the Filer is registered as an investment fund manager; and

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

**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:

***The Filer***

1. The Filer is a corporation incorporated under the laws of the province of Alberta and having its head office in Calgary, Alberta.

2. The Filer is registered as an investment fund manager in the provinces of Alberta and Ontario, as a portfolio manager in the provinces of Alberta, British Columbia, New Brunswick, Nova Scotia, Ontario, Quebec, and Saskatchewan, and as an exempt market dealer in the provinces of Alberta, British Columbia, and Ontario.

3. The Filer is not a reporting issuer in any jurisdiction and is not in default of securities legislation of any jurisdiction of Canada.

4. Majestic Asset Management LLC (**Majestic**) acted as the initial investment fund manager of the Top Fund, and will act as the investment fund manager of the Top Fund until March 31, 2025.

5. As of March 31, 2025, Majestic will resign as investment fund manager of the Top Fund and has appointed the Filer to act as the investment fund manager of the Top Fund, pursuant to the terms of an amended and restated trust agreement dated May 1, 2014.

6. As of March 31, 2025, the Filer will act as the investment fund manager of the Top Fund. The Filer or a third party will act as asset manager of the Top Fund.

***The Top Fund***

7. The Top Fund is an open-ended trust established under the laws of the province of Quebec by an amended and restated trust agreement dated May 1, 2014.

8. The Top Fund's objective is to give investors positive returns that are less correlated to traditional public market investments. In order to achieve its investment objective, the Top Fund invests across alternative assets, predominantly in Underlying Funds, private equity, private corporate fixed income securities and structured products.

9. The Top Fund is a "mutual fund" for the purposes of the Legislation.

10. Securities of the Top Fund are only be offered for sale on a continuous basis to qualified investors in all provinces and territories in Canada pursuant to an exemption from the prospectus requirements under National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**).

11. Units of the Top Fund are only be distributed in Canada pursuant to exemptions from the prospectus requirement in accordance with NI 45-106.

12. The Top Fund is not, nor will be, a reporting issuer in any province or territory of Canada.

13. The Top Fund has a financial year-end of December 31.

14. The Top Fund has invested in units of one or more Underlying Funds in which the investment objective are consistent with the Top Fund's investment objective and strategy.

15. The Filer believes that investing in the Underlying Funds in accordance with the Top Fund's investment objective and strategy offers benefits not available through a direct investment in the companies, other issuers or assets held by the Underlying Funds.

16. Securities of the Underlying Funds are typically redeemable at various intervals, but in some cases may not be redeemable until the termination of the Underlying Funds. As the Top Fund has a long-term investment horizon, it is able to manage its own liquidity requirements, taking into consideration the frequency at which the securities of the Underlying Funds may be redeemed.

17. The net asset value of the Top Fund (the **NAV**) is calculated quarterly and may in part be estimated based on the Underlying Funds' most recent valuation conducted by the manager of the relevant Underlying Funds. The Top Fund's NAV is calculated and published on a quarterly basis within 60 days of the applicable valuation date.

18. The holdings by the Top Fund of securities of the Underlying Funds are and will continue to be disclosed in its financial statements.

***Financial Statements***

19. Generally, section 2.2 and subsection 5.1(2)(a) of NI 81-106 require a Top Fund to file and deliver its annual audited financial statements by the Annual Filing Deadline. As the Top Fund's financial year-end is December 31, it has a filing and delivery deadline of March 31.

20. Section 2.11 of NI 81-106 provides an exemption (the **Filing Exemption**) from the Annual Filing Deadline if, among other things, an investment fund delivers its annual financial statements in accordance with Part 5 of NI 81-106 by the Annual Filing Deadline.

21. In order to formulate an opinion on the financial statements of the Top Fund, the Top Fund's auditors require audited financial statements of the Underlying Funds in order to audit the information contained in the Top Fund's financial statements. The auditors of the Top Fund have advised the Filer that they will be unable to complete the audit of the Top Fund's annual financial statements until the audited financial statements of the Underlying Funds are completed and available to the Top Fund.

22. The Underlying Funds are domiciled in Canada, the United States or other international jurisdictions.

23. The majority of the Underlying Funds' financial year-ends is December 31.

24. More than 95% of the Top Fund's assets are invested in Underlying Funds that are managed by entities unrelated to the Filer.

25. As of December 31, 2024, approximately seventy percent of the Top Fund's assets were invested in the Underlying Funds.

26. The Underlying Funds may have varying financial year-ends and may be subject to a variety of financial reporting deadlines. For example, assets of the Top Fund may be invested in Underlying Funds that (i) are governed by laws or have constating documents that require the financial statements to be filed within 120 days of the financial year end of the Underlying Fund, or (ii) that may in some cases allow for the filing of financial statements beyond 120 days of the financial year end of such Underlying Funds.

27. In most cases, the Top Fund has not historically, and will not in the future, be able to obtain the financial statements of the Underlying Funds sooner than the deadline for filing the financial statements of the Underlying Funds and, in all cases, no sooner than other investors of the Underlying Funds receive the financial statements of the Underlying Funds. The Filer expects this timing delay in the completion of its annual audited financial statements to occur every year for the foreseeable future.

28. Majestic, as the initial investment fund manager of the Top Fund, obtained a previous decision dated December 19, 2022 (the **Previous Decision**), exempting Majestic and the Top Fund from the Annual Filing Deadline and Annual Delivery Requirement, in order to extend the Annual Filing Deadline and Annual Delivery Requirement to permit the filing and delivery of the annual audited financial statements of the Top Fund within 180 days of the Top Fund's most recently completed financial year.

29. The Top Fund is currently in compliance with the requirements applicable to it under the Previous Decision.

30. It is expected that the Top Fund will not, without a continuation of the relief granted under the Previous Decision, be able to file its annual audited financial statements by the Annual Filing Deadline. As a result, the Top Fund would not be able to meet the Annual Delivery Requirement.

31. As a result of the Filer assuming the responsibilities of investment fund manager of the Top Fund effective March 31, 2025, the Top Fund and the Filer may not rely on the Previous Decision as such decision (i) does not apply to the Filer or relieve the Filer of its obligations further to its assuming the responsibilities as investment fund manager of the Top Fund, and (ii) relates to other investment funds not managed by the Filer. The Filer does not intend to rely on the Previous Decision.

32. Instead, the Top Fund is required to obtain a new exemption under similar terms in order to ensure continuity of the relief provided for under the Previous Decision and for the Top Fund to continue to conduct its activities in the manner they are currently conducted.

33. The investors of the Top Fund have been provided, and will continue to be provided, with an offering memorandum that discloses that the annual audited financial statements for the Top Fund will be filed and delivered within 180 days of financial year end.

34. The Filer has, and will continue to notify investors in the Top Fund that it has received and intends to rely on relief from the Annual Filing Deadline and Annual Delivery Requirement.

35. The Top Fund therefore seeks an extension of the Annual Filing Deadline and Annual Delivery Requirement to June 30 of each year, to enable the Top Fund's auditors to first receive the audited financial statements of the Underlying Funds so as to be able to prepare the Top Fund's annual audited financial statements, and so as to ensure continuation for the Filer of the relief granted under the Previous Decision.

**Decision**

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted to the Top Fund for so long as:

1. The Top Fund has a financial year ended December 31.

2. The investment objective of the Top Fund involves investing in Underlying Funds.

3. The Top Fund invests the majority of its assets in Underlying Funds.

4. No less than 25% of the total assets of the Top Fund at the time the Top Fund makes the initial investment decision in the Underlying Funds that have financial reporting periods that end on December 31 of each year and are subject to the requirement that their annual financial statements be delivered on or before the 90th day of their financial year ends.

5. The offering memorandum provided to unitholders regarding the Top Fund discloses that its annual audited financial statements will be filed and delivered within 180 days of financial year end, subject to regulatory approval.

6. The Top Fund notifies its unitholders that the Top Fund has received and intends to rely on the Requested Relief.

7. The Top Fund is not a reporting issuer and the Filer is a corporation incorporated under the laws of the province of Alberta with its head office in Calgary, Alberta and has the necessary registrations to carry out its operations in each jurisdiction of Canada in which it operates.

8. The conditions in section 2.11 of NI 81-106 will be met, except for subsection 2.11(b), and:

   (a) The audited annual financial statements of the Top Fund will be delivered to the Top Fund's investors in accordance with Part 5 of NI 81-106 on or before the 180th day after the Top Fund's most recently completed financial year.

9. The Requested Relief terminates within one year of the coming into force of any amendment to NI 81-106 or other rule that modifies how the Annual Filing Deadline or Annual Delivery Requirement applies in connection with mutual funds under the Legislation.

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

Application File #: 2025/0171
SEDAR+ File #: 6258143

### B.3.4 Purpose Investments Inc.

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Existing and future mutual funds managed by an investment fund manager granted relief from paragraphs 15.3(4)(c) and (f) of NI 81-102 to permit references to FundGrade A+ Awards, FundGrade Ratings, LSEG Lipper Awards and LSEG Lipper Leader Ratings in sales communications – Relief subject to conditions requiring specified disclosure in the sales communication and the requirement that the FundGrade A+ Awards and LSEG Lipper Awards being referenced have not been awarded more than 365 days before the date of the sales communication.

**Applicable Legislative Provisions**

National Instrument 81-102 Investment Funds, ss. 15.3(4)(c), 15.3(4)(f) and 19.1.

**March 28, 2025**

**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 the existing mutual funds and future mutual funds of which the Filer or an affiliate of the Filer is or becomes the investment fund manager which are available for sale to retail investors and to which National Instrument 81-102 *Investment Funds* (**NI 81-102**) applies (each a **Fund** and collectively, the **Funds**) for a decision under the securities legislation of the jurisdiction of the principal regulator (the **Legislation**) for an exemption under section 19.1 of NI 81-102 from the requirements set out in paragraphs 15.3(4)(c) and 15.3(4)(f) of NI 81-102, which provide that a sales communication must not refer to a performance rating or ranking of a mutual fund or asset allocation service unless:

(a) the rating or ranking is provided for each period for which standard performance data is required to be given, except the period since the inception of the mutual fund; and

(b) the rating or ranking is to the same calendar month end that is:

i not more than 45 days before the date of the appearance or use of the advertisement in which it is included, and

ii not more than three months before the date of first publication of any other sales communication in which it is included,

in order to permit the FundGrade A+ Awards, FundGrade Ratings, LSEG Lipper Awards and LSEG Lipper Leader Ratings (each as defined below) to be referenced in sales communications relating to the Funds (together, the **Exemption Sought**).

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

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

(b) the Filer has provided notice that subparagraph 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (together with the Jurisdiction, collectively referred to as the **Canadian Jurisdictions**).

**Interpretation**

Defined terms contained in NI 81-102, National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning in this decision unless otherwise defined.

**Representations**

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

***The Filer and the Funds***

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 is registered (a) as an exempt market dealer in each of the provinces of Canada, (b) as a portfolio manager in Alberta, British Columbia, Newfoundland and Labrador, Ontario and Québec, (c) as an investment fund manager in each of the provinces of Canada, and (d) as a commodity trading manager in Ontario.

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

4. Each Fund is, or will be, an open-ended mutual fund established either as a trust or a class of shares of a mutual fund corporation under the laws of a Jurisdiction. The securities of each of the Funds are, or will be, qualified for distribution pursuant to one or more prospectuses or simplified prospectuses, as the same may be amended from time to time.

5. Each Fund is, or will be, a reporting issuer under the laws of the Jurisdictions.

6. Each Fund is, or will be, governed by the applicable provisions of NI 81-102, subject to any exemptions therefrom that have been, or may in the future be, granted by the securities regulatory authorities.

7. Neither the Filer nor the existing Funds are in default of the securities legislation of the Canadian Jurisdictions.

***Fundata FundGrade A+ Awards Program***

8. The Filer wishes to include in sales communications of the Funds references to FundGrade Ratings (as defined below) and references to the FundGrade A+ Awards (as defined below) where such Funds have been awarded a FundGrade A+ Award.

9. Fundata Canada Inc. (**Fundata**) is not a member of the Funds' organization. Fundata is a “mutual fund rating entity” as that term is defined in NI 81-102. Fundata is a leader in supplying mutual fund information, analytical tools, and commentary. Fundata's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.

10. One of Fundata's programs is the FundGrade A+ Awards program (the **FundGrade A+ Awards**). This program highlights funds that have excelled in delivering consistently strong risk-adjusted performance relative to their peers. The FundGrade A+ Awards designate award-winning funds in most individual fund classifications for the previous calendar year, and the awards are announced in January of each year. The categories for fund classification used by Fundata are those maintained by the Canadian Investment Funds Standards Committee (**CIFSC**) (or a successor to CIFSC), a Canadian organization that is independent of Fundata.

11. The FundGrade A+ Awards are based on a proprietary rating methodology developed by Fundata, the FundGrade Rating system. The FundGrade Rating system evaluates funds based on their risk-adjusted performance measured by three well-known and widely used metrics: the Sharpe Ratio, the Information Ratio, and the Sortino Ratio. The ratios are calculated for the two- through ten-year time periods for each fund. When there is more than one eligible series of a fund, an average ratio is taken for each period. The ratios are ranked across all time periods and an overall score is calculated by equally weighting the yearly rankings.

12. The FundGrade Ratings are letter grades for each fund and are determined each month (the **FundGrade Ratings**). The FundGrade Ratings for each month are released on the seventh business day of the following month. The top 10% of funds earn an A Grade; the next 20% of funds earn a B Grade; the next 40% of funds earn a C Grade; the next 20% of funds receive a D Grade; and the lowest 10% of funds receive an E Grade. Because the overall score of a fund is calculated by equally weighting the periodic rankings, to receive an A Grade, a fund must show consistently high scores for all ratios across all time periods.

13. Fundata calculates a grade using only the retail series of each fund. Institutional series or fee-based series of any fund are not included in the calculation. A fund must have at least two years of history to be included in the calculation. Once a letter grade is calculated for a fund, it is then applied to all related series of that fund.

14. At the end of each calendar year, Fundata calculates a "Fund GPA" for each fund based on the full year's performance. The Fund GPA is calculated by converting each month's FundGrade Rating letter grade into a numerical score. Each A is assigned a grade of 4.0; each B is assigned a grade of 3.0; each C is assigned a grade of 2.0; each D is assigned a grade of 1.0; and each E is assigned a grade of 0. The total of the grades for each fund is divided by 12 to arrive at the fund's GPA for the year. Any fund earning a GPA of 3.5 or greater earns a FundGrade A+ Award.

15. When a fund is awarded a FundGrade A+ Award, Fundata will permit such fund to make reference to the award in its sales communications.

***Lipper Leader Ratings and Lipper Awards***

16. The Filer also wishes to include in sales communications of the Funds references to LSEG Lipper Leader Ratings and LSEG Lipper Awards (as each defined below) where such Funds have been awarded a LSEG Lipper Award.

17. LSEG Lipper, Inc. (**Lipper**) is a "mutual fund rating entity" as that term is defined in NI 81-102. Lipper is part of the London Stock Exchange Group, plc group of companies, and is a global leader in supplying mutual fund information, analytical tools, and commentary. Lipper's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.

18. One of Lipper's programs is the LSEG Lipper Fund Awards (the **LSEG Lipper Awards**). This program recognizes funds that have excelled in delivering consistently strong risk-adjusted performance relative to peers and also recognizes fund families with high average scores for all funds within a particular asset class or overall. Currently, the LSEG Lipper Awards take place in approximately 17 countries.

19. In Canada, the LSEG Lipper Awards include the LSEG Lipper Fund Awards and LSEG Lipper ETF Awards (which were awarded for the first time in Canada in 2014). For the LSEG Lipper Fund Awards, Lipper designates award-winning funds in a number of individual fund classifications for three-, five- and ten-year periods. For the LSEG Lipper ETF Awards, Lipper designates award-winning funds in a number of individual fund classifications for the three-, five- and ten-year periods.

20. The categories for fund classification used by Lipper for the LSEG Lipper Awards in respect of Canadian funds are those maintained by CIFSC (or a successor to the CIFSC), a Canadian organization that is independent of Lipper. Only those CIFSC groups of ten or more unique funds will claim a LSEG Lipper Fund Award, and only those CIFSC groups of five or more unique ETFs (each of whom have a minimum of three or five years of performance history, as applicable) will claim a LSEG Lipper ETF Award.

21. The LSEG Lipper Awards are based on a proprietary rating methodology prepared by Lipper, the LSEG Lipper Leader Rating System. The LSEG Lipper Leader Rating System is a toolkit that uses investor-centred criteria to deliver a simple, clear description of a fund's success in meeting certain goals, such as preserving capital, lowering expenses or building wealth. LSEG Leader Lipper Ratings (as defined below) provide an instant measure of a fund's success against a specific set of key metrics, and can be useful to investors in identifying funds that meet particular characteristics.

22. In Canada, the LSEG Lipper Leader Rating System includes LSEG Lipper Ratings for Consistent Return (reflecting funds' historical risk-adjusted returns relative to funds in the same classification), LSEG Lipper Ratings for Total Return (reflecting funds' historical total return performance relative to funds in the same classification), LSEG Lipper Ratings for Preservation (reflecting funds' historical loss avoidance relative to other funds in the same classification) and LSEG Lipper Ratings for Expense (reflecting funds' expense minimization relative to funds with similar load structures) (collectively, the **LSEG Lipper Leading Ratings**). In each case, the categories for fund classification used by Lipper for the LSEG Lipper Leader Ratings are those maintained by CIFSC (or a successor to CIFSC). LSEG Lipper Leader Ratings are measured monthly over 36-, 60- and 120-month periods, and an overall rating is also measured, which is an unweighted average of the previous three periods. The highest 20% of funds in each category are named LSEG Lipper Leaders for that particular rating and receive a score of 5, the next 20% receive a score of 4, the middle 20% are scored 3, the next 20% are scored 2 and the lowest 20% are scored 1.

23. The LSEG Lipper Awards, awarded annually in Canada, are based on the LSEG Lipper Ratings for Consistent Return measure, which, as generally described above, is a risk-adjusted mutual fund return performance measure used by Lipper that takes into account both short- and long-term risk-adjusted performance relative to fund classification, together with a measure of a fund's consistency. In respect of the LSEG Lipper Awards for Canada, the LSEG Lipper Ratings for Consistent Return are measured over the 36-, 60- and 120-month periods ending at the end of July of each year. As noted above, the highest 20% of funds in each classification are named LSEG Lipper Leaders for Consistent Return, and

the highest LSEG Lipper Leader for Consistent Return in each applicable fund classification over these periods wins a LSEG Lipper Award.

***Sales Communication Disclosure***

*FundGrade Ratings and FundGrade A+ Awards*

24. The FundGrade Ratings fall within the definition of "performance data" under NI 81-102, as they constitute "a rating, ranking, quotation, discussion or analysis regarding an aspect of the investment performance of an investment fund", given that the FundGrade Ratings are based on performance measures calculated by Fundata. The FundGrade A+ Awards may be considered to be "overall ratings or rankings", given that the awards are based on the FundGrade Ratings as described above. Therefore, references to FundGrade Ratings and FundGrade A+ Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of NI 81-102.

25. Paragraph 15.3(4)(c) of NI 81-102 imposes a "matching" requirement for performance ratings or rankings that are included in sales communications for mutual funds. If a performance rating or ranking is referred to in a sales communication, it must be provided for, or "match", each period for which standard performance data is required to be given for the fund, except for the period since the inception of the fund (i.e., for one-, three-, five and ten-year periods, as applicable).

26. While FundGrade Ratings are based on calculations for a minimum of two years through to a maximum of ten years, and the FundGrade A+ Awards are based on a yearly average of monthly FundGrade Ratings, specific ratings for the three-, five- and ten-year periods within the two- to ten-year measurement period are not given. This means that a sales communication referencing FundGrade Ratings cannot comply with the "matching" requirement contained in paragraph 15.3(4)(c) of NI 81-102. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for a Fund to use FundGrade Ratings in sales communications.

27. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the FundGrade A+ Awards in sales communications for the Funds because it is available only if a sales communication "otherwise complies" with the requirements of subsection 15.3(4). As noted above, sales communications referencing the FundGrade A+ Awards cannot comply with the "matching" requirement in subsection 15.3(4) because the underlying FundGrade Ratings are not available for the three-, five- and ten-year periods within the two- to ten-year measurement period for the FundGrade Ratings, rendering the exemption in subsection 15.3(4.1) unavailable. Relief from paragraph 15.3(4)(c) is therefore required in order for the Funds to reference the FundGrade A+ Awards and the FundGrade Ratings in sales communications.

28. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. This paragraph provides that in order for a rating or ranking such as a FundGrade A+ Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.

29. Because the evaluation of Funds for the FundGrade A+ Awards will be based on data aggregated until the end of December in any given year and the results will be published in January of the following year, by the time a Fund receives a FundGrade A+ Award in January, paragraph 15.3(4)(f) of NI 81-102 will only allow the FundGrade A+ Award to be used in an advertisement until the middle of February and in other sales communications until the end of March. Relief from paragraph 15.3(4)(f) is required in order for the FundGrade A+ Awards to be referenced in sales communications relating to the Funds outside the above periods.

*Lipper Leader Ratings and Lipper Awards*

30. The LSEG Lipper Leader Ratings are performance ratings or rankings under NI 81-102 and LSEG Lipper Awards may be considered to be performance ratings or rankings under NI 81-102 given that the awards are based on the LSEG Lipper Leader Ratings as described above. Therefore, references to LSEG Lipper Leader Ratings and LSEG Lipper Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of NI 81-102.

31. In Canada and elsewhere, LSEG Lipper Leader Ratings are calculated only for 36-, 60- and 120- month periods and are not calculated for a one-year period. This means that a sales communication referencing a LSEG Lipper Leader Rating cannot comply with the "matching" requirement contained in paragraph 15.3(4)(c) of NI 81-102 because a rating is not available for the one-year period. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for the Funds to reference LSEG Lipper Leader Ratings in sales communications.

32. In addition, a sales communication referencing the overall LSEG Lipper Leader Ratings and the LSEG Lipper Awards, which are based on the LSEG Lipper Leader Ratings, must disclose the corresponding LSEG Lipper Leader Rating for each period for which standard performance data is required to be given. As noted above, because a rating for the one-

year period is not available for the LSEG Lipper Leader Ratings, sales communications referencing the overall LSEG Lipper Leader Ratings or LSEG Lipper Awards also cannot comply with the matching requirement contained in paragraph 15.3(4)(c) of NI 81-102.

33. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the overall LSEG Lipper Leader Ratings or LSEG Lipper Awards in sales communications for the Funds because subsection 15.3(4.1) of NI 81-102 is available only if a sales communication otherwise complies with the requirements of subsection 15.3(4) of NI 81-102. As noted above, sales communications referencing the overall LSEG Lipper Leader Ratings or LSEG Lipper Awards cannot comply with the "matching" requirement in subsection 15.3(4) of NI 81-102 because the underlying LSEG Lipper Leader Ratings are not available for the one-year period, rendering the exemption in subsection 15.3(4.1) of NI 81-102 unavailable. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for the Funds to reference overall LSEG Lipper Leader Ratings and the LSEG Lipper Awards in sales communications.

34. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. The paragraph provides that in order for a rating or ranking such as a LSEG Lipper Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.

35. Because the evaluation of funds for the LSEG Lipper Awards will be based on data aggregated until the end of July in any given year and the results will be published in November of that year, by the time a fund receives an award in November, paragraph 15.3(4)(f) of NI 81-102 will prohibit it from publishing news of the award altogether.

36. The Exemption Sought is required in order for the FundGrade Ratings, FundGrade A+ Awards, LSEG Lipper Leader Ratings and LSEG Lipper Awards to be referenced in sales communications relating to the Funds.

*General*

*The Exemption Sought will provide investors with helpful information*

37. The FundGrade A+ Awards, FundGrade Ratings, LSEG Lipper Awards, and LSEG Lipper Leader Ratings provide important tools for investors, as they provide them with context when evaluating investment choices.

38. The FundGrade A+ Awards, FundGrade Ratings, LSEG Lipper Awards, and LSEG Lipper Leader Ratings provide an objective, transparent and quantitative measure of performance that is based on the expertise of Fundata or Lipper, as applicable, in fund analysis and alleviates any concern that references to them may be misleading and therefore, contrary to paragraph 15.2(1)(a) of NI 81-102.

**Decision**

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted to permit the FundGrade A+ Awards, FundGrade Ratings, LSEG Lipper Awards and LSEG Lipper Leader Ratings to be referenced in sales communications relating to a Fund provided that:

1. The sales communication that refers to the FundGrade A+ Awards, FundGrade Ratings, LSEG Lipper Awards and LSEG Lipper Leader Ratings complies with Part 15 of NI 81-102 other than as set out herein and contains the following disclosure in at least 10-point type:

    a. the name of the category for which the Fund has received the award or rating;

    b. the number of mutual funds in the category for the applicable period;

    c. the name of the ranking entity, i.e., Fundata or Lipper;

    d. the length of period and the ending date, or the first day of the period and the ending date on which the FundGrade A+ Awards, FundGrade Rating, LSEG Lipper Awards or LSEG Lipper Leader Ratings is based;

    e. a statement that FundGrade Ratings and LSEG Lipper Leader Ratings are subject to change every month;

f. in the case of a FundGrade A+ Award or LSEG Lipper Award, a brief overview of the FundGrade A+ Award or LSEG Lipper Award, as applicable;

g. in the case of a FundGrade Rating (other than FundGrade Ratings referenced in connection with a FundGrade A+ Award) or a LSEG Lipper Leader Rating (other than LSEG Lipper Leader Ratings referenced in connection with a LSEG Lipper Award), a brief overview of the FundGrade Rating or LSEG Lipper Leader Rating, as applicable;

h. where LSEG Lipper Awards are referenced, the corresponding LSEG Lipper Leader Rating that the LSEG Lipper Award is derived from is presented for each period for which standard performance data is required other than the one-year and since inception periods;

i. where a LSEG Lipper Leader Rating is referenced, the LSEG Lipper Leader Ratings are presented for each period for which standard performance data is required other than the one-year and since inception periods;

j. disclosure of the meaning of the FundGrade Ratings from A to E (e.g., rating of A indicates a fund is in the top 10% of its category) or LSEG Lipper Leader Ratings from 1 to 5 (e.g., rating of 5 indicates a fund is in the top 20% of its category), as applicable; and

k. reference to Fundata's website (www.fundata.com) for greater detail on the FundGrade A+ Awards and the FundGrade Ratings or reference to Lipper's website for greater detail on the LSEG Lipper Awards and LSEG Lipper Leader Ratings, which includes the rating methodology prepared by Fundata or Lipper, as applicable;

2. The FundGrade A+ Awards and LSEG Lipper Awards being referenced must not have been awarded more than 365 days before the date of the sales communication; and

3. The FundGrade A+ Awards, FundGrade Ratings, LSEG Lipper Awards, and LSEG Lipper Leader Ratings being referenced are calculated based on comparisons of performance of mutual funds within a specified category established by the CIFSC (or a successor to the CIFSC).

“Darren McKall”
Manager, Investment Management Division
Ontario Securities Commission

Application File #: 2025/0104
SEDAR+ File #: 6244998

### B.3.5 Medical Facilities Corporation

**Headnote**

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from the extension take up requirements in subsection 2.32(4) of National Instrument 62-104 Take-Over Bids and Issuer Bids – an issuer conducting an issuer bid by way of a modified Dutch auction procedure – issuer may wish to extend the bid if it is undersubscribed and the market price of the shares at the time is not greater than the range of proposed prices under the bid – requires relief from the requirement not to extend its issuer bid if all terms and conditions are met unless the issuer first takes up all securities validly deposited and not withdrawn under the issuer bid as all tenders need to be known in order to calculate the purchase price per share – requested relief granted, subject to conditions.

**Applicable Legislative Provisions**

National Instrument 62-104 Take-Over Bids and Issuer Bids, ss. 2.32(4) and 6.1.

**February 10, 2025**

**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**
**MEDICAL FACILITIES CORPORATION**
**(the Filer)**

**DECISION**

**Background**

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that, in connection with the proposed purchase by the Filer of a portion of its issued and outstanding common shares (the **Common Shares**) pursuant to an issuer bid commenced on January 20, 2025 (the **Offer**), the Filer be exempt from the requirement set out in subsection 2.32(4) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (**NI 62-104**) that the Offer not be extended if all the terms and conditions of the Offer have been complied with or waived unless the Filer first takes up all of the Common Shares deposited under the Offer and not withdrawn (the **Exemption Sought**).

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

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

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

**Interpretation**

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 62-104 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 validly existing under the *Business Corporations Act* (British Columbia) and is in good standing.

2. The registered office of the Filer is in Vancouver, British Columbia and its principal executive office is in Toronto, Ontario.

3. The Filer is a reporting issuer in each jurisdiction of Canada and is not in default of any requirement of the securities legislation in any jurisdiction in which it is a reporting issuer.

4. The authorized share capital of the Filer consists of an unlimited number of Common Shares. As at January 16, 2025, the date prior to the announcement of the Filer's intention to proceed with the Offer, 22,932,462 Common Shares were issued and outstanding.

5. The Common Shares are listed and posted for trading on the Toronto Stock Exchange (the **TSX**) under the symbol "DR".

6. The Filer determined to proceed with the Offer following the completion of the Filer's previously announced sale of Black Hills Surgical Hospital, LLP, one its specialty surgical hospitals, a substantial portion of the net proceeds from which will be distributed to shareholders in the Offer (each a **Shareholder**, collectively the **Shareholders**). The Filer is making the Offer because its board of directors (the **Board**) believes, based on a number of factors, including recommendations from management, that the purchase of Common Shares is in the best interests of the Filer and represents an appropriate use of its available cash on hand in furtherance of the Filer's corporate strategy to return capital to shareholders. After giving effect to the Offer, the Filer will continue to have sufficient financial resources and working capital to conduct its ongoing business and operations in accordance with its stated strategy.

7. The Filer formally announced its intention to commence the Offer on January 17, 2025. The issuer bid circular dated January 20, 2025 prepared and filed by the Filer in connection with the Offer (the **Circular**) specifies that the Filer proposes to purchase, by way of a modified "Dutch auction" procedure in the manner described below, up to $80,750,000 of the issued and outstanding Common Shares (the **Maximum Purchase Amount**) at a purchase price of not less than $15.50 and not more than $17.00 per Common Share (the **Price Range**).

8. The Offer is made only for Common Shares and not made for any convertible securities. Pursuant to subsection 2.8(b) of NI 62-104, the Filer also made the Offer to each holder of convertible securities that, before the expiry of the deposit period of the Offer, are convertible into Common Shares. Such convertible securities may, at the option of the holder, be converted for Common Shares in accordance with the terms of such convertible securities prior to the expiry of the deposit period of the Offer. Common Shares issued upon the conversion of the convertible securities may be tendered to the Offer in accordance with the terms of the Offer.

9. The Filer will fund any purchase of Common Shares pursuant to the Offer, together with all related fees and expenses of the Offer, from available cash on hand. The Offer is not conditional upon the receipt of any financing.

10. Each Shareholder wishing to tender to the Offer may do so pursuant to:

    (a) auction tenders in which the tendering Shareholders specify the number of Common Shares being tendered at a specified price per Common Share (the **Auction Price**) within the Price Range in increments of $0.10 per Common Share (the **Auction Tenders**); or

    (b) purchase price tenders in which the tendering Shareholders do not specify a price per Common Share, but rather agree to have a specified number of Common Shares purchased at the Purchase Price (as defined below) to be determined by the Filer (the **Purchase Price Tenders**).

11. Shareholders may make both Auction Tenders and Purchase Price Tenders, but not in respect of the same Common Shares. Shareholders may also make multiple Auction Tenders at different Auction Prices, but not in respect of the same Common Shares (i.e. Shareholders may tender different Common Shares at different prices, but cannot tender the same Common Shares at different prices). Shareholders who tender Common Shares without making a valid Auction Tender or Purchase Price Tender will be deemed to have made a Purchase Price Tender.

12. If a Shareholder wishes to deposit Common Shares in separate lots at a different price for each lot, that Shareholder must complete a separate Letter of Transmittal (and, if applicable, a Notice of Guaranteed Delivery) for each price at which the Shareholder is depositing Common Shares. A Shareholder may not deposit the same Common Shares pursuant to both an Auction Tender and a Purchase Price Tender, or pursuant to an Auction Tender at more than one price.

13. Any Shareholder who beneficially owns fewer than 100 Common Shares (an **Odd Lot Holder**) and tenders all such Common Shares pursuant to an Auction Tender at a price at or below the Purchase Price, or pursuant to a Purchase Price Tender, will be considered to have made an "Odd Lot Tender".

14. The Filer will determine a single purchase price payable per Share (the **Purchase Price**) promptly after the expiry of the Offer by taking into account the number of Shares deposited pursuant to Auction Tenders and Purchase Price Tenders and the Auction Prices specified by Shareholders depositing Shares pursuant to Auction Tenders. The Purchase Price

will be the lowest price per Common Share that enables the Filer to purchase the maximum number of Common Shares validly deposited and not properly withdrawn pursuant to the Offer having an aggregate purchase price not exceeding the Maximum Purchase Amount. For the purposes of determining the Purchase Price, Common Shares deposited pursuant to a Purchase Price Tender will be deemed to have been deposited at a price of $15.50 per Common Share (which is the minimum price per Common Share under the Offer).

15. If the aggregate Purchase Price for the Common Shares validly deposited and not withdrawn pursuant to Auction Tenders at Auction Prices at or below the Purchase Price and Purchase Price Tenders would result in an aggregate Purchase Price in excess of the Maximum Purchase Amount, then such deposited Common Shares will be purchased as follows:

    (a) first, the Filer will purchase all Common Shares tendered at or below the Purchase Price by Odd Lot Holders; and

    (b) second, the Filer will purchase Common Shares at the Purchase Price on a *pro rata* basis according to the number of Common Shares deposited or deemed to be deposited at a price equal to or less than the Purchase Price by the depositing Shareholders, for an aggregate purchase price of the Maximum Purchase Amount less the aggregate purchase price of the Common Shares purchased from Odd Lot Holders. All Auction Tenders and Purchase Price Tenders will be subject to adjustment to avoid the purchase of fractional Common Shares (with fractions rounded down to the nearest whole Common Share).

16. Until expiry of the Offer, all information about the number of Common Shares tendered and the prices at which such Common Shares are tendered will be required to be kept confidential by the depositary and the Filer until the Purchase Price has been determined.

17. All Common Shares purchased by the Filer pursuant to the Offer (including Auction Tenders tendered at a price below the Purchase Price) will be purchased at the Purchase Price, payable in cash. All payments to Shareholders will be subject to deduction of applicable withholding taxes.

18. Common Shares validly deposited by a Shareholder pursuant to an Auction Tender will not be purchased by the Filer pursuant to the Offer if the Auction Price per Common Share specified by the Shareholder is greater than the Purchase Price.

19. Certificates for all Common Shares not purchased under the Offer (including Common Shares deposited pursuant to an Auction Tender at prices greater than the Purchase Price, Common Shares not purchased because of pro-ration, improper tenders, or Common Shares not taken up due to the termination of the Offer), or properly withdrawn before the Expiration Date (as defined below), will be returned (in the case of certificates representing Common Shares all of which are not purchased) or replaced with new certificates representing the balance of Common Shares not purchased (in the case of certificates representing Common Shares of which less than all are purchased), promptly after the Expiration Date or termination of the Offer or the date of withdrawal of the Common Shares, without expense to the Shareholder. In the case of Common Shares tendered through book-entry transfer into the account of Computershare Trust Company of Canada at Depository Trust Company (**DTC**) or CDS Clearing and Depository Services Inc. (**CDS**), the Common Shares will be credited to the appropriate account maintained by the tendering Shareholder at DTC or CDS, as applicable, without expense to the Shareholder.

20. Shareholders who do not accept the Offer will continue to hold the same number of Common Shares held before the Offer and their proportionate ownership of Common Shares will increase following completion of the Offer, subject to the number of Common Shares purchased under the Offer.

21. To the knowledge of the Filer, after reasonable inquiry, no person or company beneficially owns, or exercises control or direction over, more than 10% of the voting rights attached to all of the Filer's outstanding voting securities.

22. As of January 20, 2025, to the knowledge of the Filer and its directors and officers after reasonable inquiry, no director or officer of the Filer, no insider of the Filer, no associate or affiliate of the Filer or of an insider of the Filer, and no person or company acting jointly or in concert with the Filer, has indicated any present intention to deposit any of such person's or company's Common Shares pursuant to the Offer.

23. On January 16, 2025, the closing price of the Common Shares on the TSX was $15.50 per Common Share.

24. As of January 16, 2025, there were 22,932,462 Common Shares issued and outstanding. If the Purchase Price is determined to be $15.50 (being the minimum Purchase Price under the Offer), the maximum number of Common Shares that the Filer is offering to purchase pursuant to the Offer is 5,209,677 Common Shares which represents approximately 22.7% of the outstanding Common Shares. If the Purchase Price is determined to be $17.00 (being the maximum Purchase Price under the Offer), the maximum number of Common Shares that the Filer is offering to purchase pursuant to the Offer is 4,750,000 Common Shares which represents approximately 20.7% of the outstanding Common Shares.

25. The Offer is scheduled to expire at 11:59 p.m. (Eastern time) on February 24, 2025 (the **Expiration Date**).

26. If all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Date but the aggregate Purchase Price of the Common Shares validly tendered and not withdrawn pursuant to Auction Tenders and Purchase Price Tenders is less than the Maximum Purchase Amount, the Filer may wish to extend the Offer. The Filer will not extend the Offer if, all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Date and the aggregate Purchase Price of the Common Shares validly tendered and not withdrawn pursuant to Auction Tenders and Purchase Price Tenders is equal to or greater than the Maximum Purchase Amount.

27. Pursuant to subsection 2.32(4) of NI 62-104, an issuer may not extend an issuer bid if all the terms and conditions of the issuer bid have been complied with or waived unless the issuer first takes up all securities deposited under the issuer bid and not withdrawn.

28. As the determination of the Purchase Price requires that all Auction Prices and the number of Common Shares deposited pursuant to both Auction Tenders and Purchase Price Tenders be known and taken into account, the Filer will be unable to take up the Common Shares deposited and not withdrawn under the Offer as of the Expiration Date prior to extending the Offer because the Purchase Price will not and cannot be known as additional Auction Tenders and Purchase Price Tenders may be made during the extension period that will impact the calculation of the Purchase Price. Accordingly, the Exemption Sought is required in connection with an extension of the Offer to enable the Filer to make a final determination regarding the Purchase Price, taking into account all Common Shares tendered prior to the Expiration Date and those tendered during any extension period.

29. Common Shares deposited pursuant to the Offer, including those deposited prior to the Expiration Date, may be withdrawn by the Shareholder at any time prior to the expiration of any extension period in respect of the Offer.

30. The Filer is relying on the "liquid market exemption" set out in subsection 3.4(b) of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* (**MI 61-101**) from the formal valuation requirements applicable to issuer bids under MI 61-101 (the **Liquid Market Exemption**).

31. There is a "liquid market" for the Common Shares, as such term is defined in MI 61-101, as of the date the Offer was publicly announced because:

    (a) there is a published market for the Common Shares (being the TSX);

    (b) during the 12-month period before January 17, 2025 (the date the Offer was publicly announced):

        (i) the number of issued and outstanding Common Shares was at all times at least 5,000,000 (excluding Common Shares beneficially owned, or over which control or direction was exercised, by related parties), all of which Common Shares are freely tradeable;

        (ii) the aggregate trading volume of Common Shares on the TSX was at least 1,000,000 Common Shares;

        (iii) there were at least 1,000 trades in the Common Shares on the TSX; and

        (iv) the aggregate value of the trades in the Common Shares on the TSX was at least $15,000,000; and

    (c) the market value of the Common Shares on the TSX, as determined in accordance with MI 61-101, was at least $75,000,000 for December 2024 (the calendar month preceding the calendar month in which the Offer was publicly announced).

32. The Filer has obtained, on a voluntary basis, a liquidity opinion (the **Liquidity Opinion**) of National Bank Financial Inc. to the effect that a liquid market for the Common Shares existed based on trading information as at January 16, 2025 and that it is reasonable to conclude that, following the completion of the Offer, there will be a market for holders of Common Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer. A copy of the Liquidity Opinion was included in the Circular.

33. Based on the liquid market test set out above and the Liquidity Opinion, the Board determined that it is reasonable to conclude that, following completion of the Offer, there will be a market for holders of Common Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer.

34. The Board has determined that the Offer is in the best interests of the Filer and Shareholders, and that the Offer is an advisable use of the Filer's financial resources.

35. The Filer has disclosed in the Circular relating to the Offer the following information:

    (a) the mechanics for the take up of, and payment for, deposited Common Shares as described herein;

(b) that, by tendering Common Shares under an Auction Tender at the lowest price in the Price Range or by tendering Common Shares under a Purchase Price Tender, a Shareholder can reasonably expect that the Common Shares so tendered will be purchased at the Purchase Price, subject to proration and other terms of the Offer as specified herein;

(c) that the Filer has applied for the Exemption Sought;

(d) the manner in which an extension of the Offer will be communicated to Shareholders and the public;

(e) that Common Shares deposited pursuant to the Offer may be withdrawn any time prior to the expiration of any extension period in respect of the Offer;

(f) the facts supporting the Filer's reliance on the Liquid Market Exemption, including the Liquidity Opinion; and

(g) the disclosure prescribed by the Legislation for issuer bids.

**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 the Filer:

(a) takes up Common Shares validly deposited under the Offer and not withdrawn and pays for such Common Shares, in each case, in the manner set out in the Circular and described herein;

(b) is eligible to rely on the Liquid Market Exemption;

(c) complies with the requirements of Regulation 14E promulgated under the Exchange Act in respect of the Offer; and

(d) will issue and file a press release announcing receipt of the Exemption Sought promptly, and in any case, no later than (1) business day following receipt of the Exemption Sought.

"David Mendicino"
Manager, Corporate Finance Division
Ontario Securities Commission

### B.3.6 Vitesse Energy, Inc.

**Headnote**

NP 11-203 – issuer requests relief from the requirements of National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities – issuer has less than 10% of its securityholders resident in Canada – issuer to remain a U.S. issuer and a SEC foreign issuer – issuer exempt from the requirements of NI 51-101 provided that the issuer complies with the oil and gas disclosure requirements of the SEC and NYSE.

**Applicable Legislative Provisions**

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities, s. 8.13.

**Citation:** *Re Vitesse Energy, Inc.*, 2025 ABASC 26

**March 25, 2025**

**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**
**VITESSE 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) that, subject to the conditions set forth herein, the Filer be exempted from the requirements of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**) (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 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 and Saskatchewan; 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 National Instrument 14-101 *Definitions*, MI 11-102, 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* (**NI 71-102**) have the same meanings 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 governed by the laws of the State of Delaware, with its head office in Greenwood Village, Colorado.

2. The Filer is engaged in the business of acquisition, development and production of oil and natural gas, primarily in North Dakota and Montana. The Filer's assets and operations are located outside of Canada.

3. The Filer is a reporting issuer in Alberta, British Columbia, Saskatchewan and Ontario (collectively, the **Reporting Jurisdictions**), and is not in default of securities legislation in any jurisdiction of Canada. The Filer became a reporting issuer in the Reporting Jurisdictions on March 7, 2025 upon completion of a plan of arrangement under Section 193 of the *Business Corporations Act* (Alberta) (the **Arrangement**) pursuant to which the Filer acquired all of the issued and outstanding shares (the **Lucero Shares**) of Lucero Energy Corp. (**Lucero**).

4. The Filer's authorized capital stock consists of 95,000,000 shares of common stock (**Vitesse Shares**), par value US$0.01 per share, and 5,000,000 shares of preferred stock (**Preferred Shares**), par value US$0.01 per share. As of March 7, 2025, following completion of the Arrangement, there were 38,578,409 Vitesse Shares issued and outstanding (excluding any treasury stock held by the Filer), and no Preferred Shares were outstanding.

5. The Vitesse Shares are listed on the New York Stock Exchange (**NYSE**) under the symbol "VTS".

6. The Filer has no outstanding notes or other debt instruments.

7. The Filer has made a good faith investigation to confirm holders of the Vitesse Shares following completion of the Arrangement, after giving effect to the issuance of Vitesse Shares to the former holders of Lucero Shares in the Arrangement. The investigation included obtaining the following information: (i) a list of registered holders of Vitesse

Shares from Vitesse's transfer agent, Equiniti Trust Company, LLC dated February 10, 2025; (ii) a list of registered holders of Lucero Shares from Lucero's transfer agent, Odyssey Trust Company, dated February 7, 2025; (iii) a geographical survey of beneficial holders of Vitesse Shares provided by Broadridge Financial Solutions Inc. effective February 12, 2025; and (iv) a geographical survey of beneficial holders of Lucero Shares provided by Broadridge Financial Solutions Inc. effective February 7, 2025.

8. Based on Vitesse's investigation, after giving effect to issuance of Vitesse Shares to the former holders of Lucero Shares in the Arrangement, the Filer estimates that an aggregate of approximately 3,718,189 Vitesse Shares (representing approximately 9.6% of the total issued and outstanding Vitesse Shares) are held by approximately 3,122 holders resident in Canada representing approximately 6.0% of shareholders worldwide.

9. The Vitesse Shares are registered under the 1934 Act. The Filer is subject to and is in compliance with all requirements applicable to it imposed by the SEC, the 1933 Act, the 1934 Act, the United States *Sarbanes-Oxley Act of 2002* and the rules of the NYSE (collectively, the **U.S. Rules**).

10. The Filer prepares disclosure with respect to its oil and natural gas activities (the **Oil and Gas Disclosure**) in accordance with the U.S. Rules.

11. The Filer is a "U.S. issuer" under NI 71-101 and qualifies as an "SEC foreign issuer" under NI 71-102 and relies on and complies with the exemptions from Canadian continuous disclosure requirements afforded to SEC foreign issuers under Part 4 of NI 71-102.

12. The Vitesse Shares are not listed or posted for trading on any "marketplace" in Canada (as such term is defined in National Instrument 21-101 *Marketplace Operation*), and the Filer has no current intention to list the Vitesse Shares on any marketplace in Canada.

**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:

(a) the Filer remains a U.S. issuer and an SEC foreign issuer;

(b) the Filer continues to prepare the Oil and Gas Disclosure in compliance with the U.S. Rules;

(c) the Filer issues in Canada, and files on SEDAR+, a news release stating that it will provide the Oil and Gas Disclosure prepared in accordance with the U.S. Rules rather than in accordance with NI 51-101; and

(d) the Filer files the Oil and Gas Disclosure with the securities regulatory authority or regulator in the Reporting Jurisdictions as soon as practicable after the Oil and Gas Disclosure is filed pursuant to the U.S. Rules.

"Timothy Robson"
Manager, Legal
Corporate Finance
Alberta Securities Commission

OSC File #: 2025/0122

### B.3.7 Payward Canada Inc. and Payward, Inc.

**Headnote**

Application for time-limited relief from prospectus requirement, trade reporting requirements and marketplace rules – relief granted subject to certain conditions set out in the decision, including fair access, transparency, market integrity, disclosure and reporting requirements – relief is time-limited – relief granted based on the particular facts and circumstances of the application with the objective of fostering capital raising by innovative businesses in Canada – decision should not be viewed as precedent for other filers in the jurisdictions of Canada.

**Statute cited**

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

**Instrument, Rule or Policy cited**

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 21-101 Marketplace Operation, s. 15.1.
National Instrument 23-101 Trading Rules.
National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces.
OSC Rule 91-506 Derivatives: Product Determination, ss. 2 & 4.
OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Part 3.

**April 1, 2025**

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

**AND**

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

**AND**

**IN THE MATTER OF**
**PAYWARD CANADA INC.**
**(the Filer)**

**AND**

**IN THE MATTER OF**
**PAYWARD, INC.**

**DECISION**

**Background**

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

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

The Filer operates a platform that permits clients to enter into Crypto Contracts with the Filer to buy, sell, stake and hold in custody assets commonly considered a crypto asset, digital or virtual currency, or digital or virtual token (each a **Crypto Asset**, collectively, the **Crypto Assets**). The Filer has applied for registration as a restricted dealer in accordance with Staff Notice 21-329 in each province and territory of Canada. As set out in CSA Staff Notice 21-332 *Crypto Asset Trading Platforms: Pre-Registration Undertakings – Changes to Enhance Canadian Investor Protection*, the Filer provided a pre-registration undertaking to the CSA dated March 24, 2023.

While registered as a restricted dealer, the Filer intends to apply for registration as an investment dealer, to seek membership with the Canadian Investment Regulatory Organization (**CIRO**, formerly IIROC), and to seek approval to operate an alternative trading system (**ATS**). This decision (**Decision**) has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Applicable Jurisdictions (as defined below) will not consider this Decision as constituting a precedent for other filers.

**Relief Requested**

The securities regulatory authority or regulator in Ontario (the **Principal Regulator**) has received an application from the Filer (the **Passport Application**) for a decision under the securities legislation of the Principal Regulator (the **Legislation**) exempting the Filer from the prospectus requirement of the Legislation in respect of the Filer entering into Crypto Contracts with clients to deposit, purchase, hold, stake, withdraw and sell Crypto Assets (the **Prospectus Relief**).

The securities regulatory authority or regulator in each of the jurisdictions referred to in Appendix A (the **Coordinated Review Decision Makers**) has received an application from the Filer (collectively, with the Passport Application, the **Application**) for a decision under the securities legislation of those jurisdictions exempting the Filer from:

(a) certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**);

(b) except in British Columbia, New Brunswick, Nova Scotia and Saskatchewan, relief from the whole of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**), National Instrument 23-101 *Trading Rules*, and National Instrument 23-103 *Electronic Trading and Direct Access to Marketplaces* (collectively, the **Marketplace Relief**, and together with the Trade Reporting Relief, the **Coordinated Review Relief**).

The Prospectus Relief and the Coordinated Review Relief are referred to as the **Requested Relief**.

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

(a) the Ontario Securities Commission (the **OSC**) is the Principal Regulator for this Application,

(b) in respect of the Prospectus Relief, the Filer has provided notice that, in the jurisdictions where required, subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Non-Principal Jurisdictions**, together with the Jurisdiction, the **Applicable Jurisdictions**),

(c) the Decision is the decision of the Principal Regulator, and

(d) In respect of the Requested Relief other than the Prospectus Relief, the Decision evidences the decision of each Coordinated Review Decision Maker.

**Interpretation**

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

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

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

(i) is one of the following:

1. a Canadian custodian or Canadian financial institution;

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

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

4. a foreign custodian for which the Filer has obtained the prior written consent from the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s); or

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

(ii) is functionally independent of the Filer within the meaning of NI 31-103;

(iii) has obtained audited financial statements within the last twelve months, which:

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

2. are accompanied by an auditor's report that expresses an unqualified opinion, and

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

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

(b) "**Accredited Crypto Investor**" means

(i) an individual

1. who, alone or with a spouse, beneficially owns financial assets (as defined in section 1.1 of NI 45-106) and crypto assets, if not included in financial assets, having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds $1,000,000; or

2. whose net income before taxes exceeded $200,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that net income level in the current calendar year; or

3. whose net income before taxes combined with that of a spouse exceeded $300,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that net income level in the current calendar year; or

4. who, alone or with a spouse, beneficially owns net assets of at least $5,000,000;

(ii) a person or company described in paragraphs (a) to (i) of the definition of "accredited investor" as defined in subsection 73.3(1) of the *Securities Act* (Ontario) or section 1.1 of NI 45-106; or

(iii) a person or company described in paragraphs (m) to (w) of the definition of "accredited investor" as defined in section 1.1 of NI 45-106.

(c) "**AML**" means anti-money laundering.

(d) "**Bonded Staking Service**" has the meaning as set out in representation 45.

(e) "**Canadian AML/ATF Law**" means the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and related regulations.

(f) "**Canadian custodian**" has the meaning ascribed to that term in NI 31-103.

(g) "**Canadian financial institution**" has the meaning ascribed to that term in NI 45-106.

(h) "**Crypto Asset Statement**" means the statement described in representation I.69(c)(v)

(i) "**Eligible Crypto Investor**" means

(i) a person whose

1. net assets, alone or with a spouse, in the case of an individual, exceed $400,000;

2. net income before taxes exceeded $75,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year; or

3. net income before taxes, alone or with a spouse, in the case of an individual, exceeded $125,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year; or

(ii) an Accredited Crypto Investor.

(j) "**Flexible Staking Service**" has the meaning as set out in representation 46.

(k) "**foreign custodian**" has the meaning ascribed to that term in NI 31-103.

(l) "**Form 21-101F2**" means Form 21-101F2 *Information Statement Alternative Trading System.*

(m) "**Form 31-103F1**" means Form 31-103F1 *Calculation of Excess Working Capital.*

(n) "**Liquidity Provider**" means a crypto asset trading platform or marketplace or other entity that the Filer uses to fulfill its obligations under Crypto Contracts.

(o) "**Lock-up Period**" means, in relation to Staking, any lock-up, unbonding, unstaking, or similar period imposed by the relevant Crypto Asset protocol, custodian, or Validator, where Crypto Assets that have been staked or are being un-staked will not be accessible to the client or will be accessible only after payment of additional fees or penalties or forfeiture of any rewards.

(p) "**Marketplace Services**" means services provided by a "marketplace" as defined in NI 21-101 and, in Ontario, subsection 1(1) of the *Securities Act* (Ontario).

(q) "**NI 45-106**" means National Instrument 45-106 *Prospectus Exemptions*.

(r) "**NI 81-102**" means National Instrument 81-102 *Investment Funds*.

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

(t) "**Prohibited Use**" means the violations of the restrictions relating to the use of the Platform as described in representation 69(d)(xiii).

(u) "**qualified custodian**" has the meaning ascribed to that term in NI 31-103.

(v) "**Risk Statement**" means the statement of risks described in representation 69(c);

(w) "**Specified Crypto Asset**" means the crypto assets, digital or virtual currencies, and digital or virtual tokens listed in Appendix B to this Decision.

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

(y) "**Staking**" means the act of committing or locking Crypto Assets in smart contracts to permit the owner or the owner's delegate to act as a Validator for a particular proof-of-stake consensus algorithm blockchain.

(z) "**Staking Affiliates**" means Payward Commercial, Ltd., Staked Cayman, Ltd. and any future Payward Group affiliate which may provide Staking Services.

(aa) "**Staking Services**" means the Bonded Staking Service and the Flexible Staking Service.

(bb) "**Validator**" in connection with a particular proof-of-stake consensus algorithm blockchain, means an entity that operates one or more nodes that meet protocol requirements for a Crypto Asset and that participates in consensus by broadcasting votes and committing new blocks to the blockchain.

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

In this Decision, a person or company is an affiliate of another person or company if

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

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

**Representations**

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

**The Filer**

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

2. The Filer is a wholly-owned subsidiary of Payward, Inc. (**Payward**), a Delaware corporation. Payward operates an international digital currency exchange and custody platform for the spot trading of Crypto Assets (**Kraken Global Platform**).

3. Payward, together with the Filer and other direct and indirect subsidiaries of Payward (collectively, **Payward Group**), operate globally under the business name "**Kraken**".

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

5. The Filer is registered as a money service business under regulations made under Canadian AML/ATF Law.

6. The Filer's personnel include product, engineering and design professionals, as well as qualified compliance, legal and financial professionals. These professionals bring a significant level of experience in crypto and financial services businesses. All of the Filer's personnel undergo a rigorous multi-stage interview process, and all personnel have and any new personnel will have passed a criminal background check.

7. The Filer is not in default of securities legislation in any jurisdiction in Canada, except in respect of the Filer's trading of Crypto Contracts prior to the date of this Decision.

**The Platform**

8. Payward is the operator of the Kraken Global Platform outside of Canada. The Filer operates a proprietary and automated internet-based platform that facilitates entering into Crypto Contracts and the buying, selling, holding, deposit, withdrawal and staking of Crypto Assets by Canadian residents by providing Canadian residents access to the Kraken Global Platform in Canada (the **Platform**). Any person or company resident in Canada that wishes to use the Kraken Global Platform must do so through the Platform offered by the Filer.

9. The Filer's role under the Crypto Contracts is to buy, sell or stake Crypto Assets and to provide custodial services for all Crypto Assets held in accounts on the Platform. The Filer also offers a money exchange service, allowing clients to exchange fiat currency.

10. To use the Platform, each client must open an account (a **Client Account**) using the Filer's website or mobile application. Client Accounts are governed by terms of service (**Terms of Service**) that are accepted by clients at the time of account opening. The Terms of Service govern all activities in Client Accounts, including with respect to all Crypto Assets purchased on, or transferred to, the Platform (**Client Assets**). While clients are entitled to transfer Client Assets out of their Client Accounts immediately after purchase, many clients choose to leave their Client Assets in their Client Accounts.

11. Under the Terms of Service, the Filer maintains certain controls over Client Accounts to ensure compliance with applicable law and provide secure custody of Client Assets.

12. The Terms of Service are governed by the laws of the province of Ontario, and state that the client's Crypto Assets will be held in trust for and for the benefit of the client.

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

14. The Filer does not and will not offer discretionary investment management services relating to Crypto Assets.

15. The Filer is not and will not be a member firm of CIPF and the Crypto Assets custodied on the Platform do not qualify for CIPF coverage. The Risk Statement includes disclosure that there is no CIPF coverage for the Crypto Assets and clients must acknowledge that they have received, read, and understood the Risk Statement before opening an account with the Filer.

16. The Filer will also periodically prepare and make available to its clients educational materials and other informational updates about trading on the Platform and the ongoing development of Crypto Assets and Crypto Asset trading markets.

**Custody of Client Assets**

17. The Filer has retained the services of two Acceptable Third-party Custodians (the **Custodians** and each a **Custodian**) to hold not less than 80% of the total value of Crypto Assets held on behalf of clients:

    (a) Anchorage Digital Bank (**ADB**), and

    (b) BitGo Trust Company Inc. (**Bitgo Trust**).

18. The Filer holds Crypto Assets (i) in an account clearly designated for the benefit of clients or in trust for clients, (ii) separate and apart from the assets of non-Canadian clients, and (iii) separate and apart from its own assets and from the assets of any custody service provider.

19. The Filer ensures that the Custodians hold the Filer's client Crypto Assets in a designated trust account or in an account designated for the benefit of the Filer's clients. Such account is held and designated in such a fashion as to preserve the nature of the trust and to ensure the ability to trace, by equitable or other means, the assets so held in the event of bankruptcy, insolvency, restructuring, or similar activity of the Filer or the Custodians. The terms of the custodian agreement between the Filer and each Custodian clearly identify that the Crypto Assets are held in trust for the benefit of the Filer's clients and specify the actions the Custodian will take in the event of the insolvency of the Filer. If a Custodian holds the Crypto Assets of the Filer or its affiliates, the Custodians will hold those Crypto Assets in a separate account from those Crypto Assets held in trust for the benefit of the Filer's clients.

20. ADB is a national trust bank chartered by the Office of the Comptroller of the Currency (**OCC**) in the United States. ADB received its federal banking charter in January 2021. ADB offers digital asset custody and settlement solutions, among other services, to institutional clients, pursuant to the terms of its operating agreement with the OCC (the **Operating Agreement**).

21. The Filer has assessed whether each Custodian meets the definition of an Acceptable Third-party Custodian. Other than the equity requirement for a foreign custodian, ADB satisfies the requirements of an Acceptable Third-party Custodian. As such, the Filer has sought consent from the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdictions to designate ADB as an Acceptable Third-party Custodian.

22. The Filer represents the following, based solely on information provided to the Filer by ADB:

    (a) Pursuant to its Operating Agreement, ADB is subject to close oversight by the OCC to ensure that it meets stringent compliance requirements, including the Basic Capital Requirement (as defined below).

(b) As a federally chartered trust bank, ADB is a member of the Federal Reserve and has full fiduciary powers under the U.S. Code of Federal Regulations, Title 12 Part 9 governing fiduciary activities of national banks.

ADB is one of the types of entities that can serve as a "qualified custodian" under the U.S. *Investment Advisers Act* of 1940 (the **Advisers Act**) in its status as a bank defined in section 202(a)(2) of the Advisers Act, subject to other requirements.

(c) As a federally chartered trust bank, ADB is deemed a "good control location" pursuant to the U.S. *Securities Exchange Act* of 1934 so long as, among other things, ADB has acknowledged that the client securities are not subject to any right, charge, security interest, lien or claim of any kind in favour of the ADB or any person claiming through ADB and the securities are in the custody or control of ADB.

(d) ADB is a wholly owned subsidiary of Anchor Labs, Inc. (**Anchor Labs**), a Delaware corporation incorporated on October 27, 2017.

(e) Pursuant to the Operating Agreement, ADB is required to maintain capital at all times (the **Basic Capital Requirement**) at least equal to the greater of: (a) the amount required to be "well-capitalized" under the standards applicable to national banking associations; (b) USD 7,000,000 in Tier 1 capital; or (c) such other higher amount as the OCC may require pursuant to the exercise of its regulatory authority or in connection with any action on any application, notice, or other request made by ADB.

(f) ADB maintains at all times a liquidity buffer equivalent to 6-months of operating expenses.

(g) ADB has entered into a "*capital and liquidity support agreement*" with Anchor Labs and the OCC and a "*capital assurance and liquidity maintenance agreement*" with Anchor Labs that set forth ADB's right and obligation to seek and obtain all necessary capital and liquidity support from Anchor Labs and Anchor Labs' obligation to provide ADB with such support. These agreements require Anchor Labs to provide ADB with all financial support necessary to ensure the maintenance of capital and liquidity in accordance with the Basic Capital Requirement and additional requirements set out in the Operating Agreement.

(h) ADB is continuing to grow its business and, while past performance is not a guarantee of future performance, and solely based on the assumption that ADB's growth for the next three (3) years is the same as ADB's growth in 2024, ADB may meet the equity requirement for a foreign custodian within three (3) years of the date of the Decision.

(i) Anchor Labs has equity, as reported on its most recent audited financial statements, in excess of $100,000,000, and will hold cash and cash equivalents in an amount sufficient to satisfy its obligations under the Parental Guarantee (as defined below) during any period when ADB's most recent audited financial statements indicate that ADB does not have equity of at least $100,000,000.

23. BitGo Trust is licensed as a trust company with the South Dakota Division of Banking.

24. The Custodians operate custody accounts for the Filer to use for the purpose of securely custodying clients' Crypto Assets. The Crypto Assets that the Custodians hold in trust for the clients of the Filer are held in designated omnibus accounts in trust in the name of the Filer for the benefit of the Filer's clients and are held separate and apart from the assets of the Filer, the Filer's affiliates, the Custodians, and the assets of other clients of the Custodians.

25. The Filer has conducted due diligence on the Custodians, including, among other things, assessing each Custodian's policies and procedures for holding Crypto Assets and a review of each Custodian's SOC 2 Type 2 audit reports. The Filer has not identified any material concerns from its due diligence on the Custodians.

26. Each of the Custodians maintains an appropriate level of insurance for Crypto Assets held by the Custodians. The Filer has assessed the Custodians' insurance policies and has determined, based on information that is publicly available and on information provided by the Custodians and considering the controls of the Custodians' business, that the amount of insurance is appropriate.

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

28. The Filer holds client cash in a designated trust account with a Canadian custodian or Canadian financial institution. Despite the Filer holding client cash in a designated trust account with a Canadian custodian or a Canadian financial institution, the Filer may hold client cash in a designated trust account with a foreign custodian if a reasonable person would conclude, considering all of the relevant circumstances, including, for greater certainty, the nature of the regulation

and the sufficiency of the equity of the foreign custodian, that using the foreign custodian is more beneficial to the client than using a Canadian custodian or a Canadian financial institution.

29. The Filer has also established and maintains and applies policies and procedures to ensure that:

    (a) Each Custodian holds all Crypto Assets for clients of the Filer in trust in a designated trust account in the name of the Filer for the benefit of the Filer's clients, separate and apart from the assets of the Filer's non-Canadian clients, and separate and distinct from the assets of the Filer, the Filer's affiliates and all of the Custodians' other clients.

    (b) Each Custodian maintains an appropriate level of insurance for Crypto Assets held by the Custodian. The Filer has assessed each Custodian's insurance policy and has determined, based on information that is publicly available and on information provided by each Custodian and considering the controls of the Custodian's business, that the amount of insurance is appropriate.

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

30. The Filer establishes, and maintains and applies, policies and procedures that are reasonably designed to ensure that each Custodian's records related to Crypto Assets that the Custodians holds in trust for clients of the Filer are accurate and complete.

31. Where the Filer holds clients' Crypto Assets for operational purposes, it does so in trust for the benefit of its clients, and separate and distinct from the assets held for its own assets.

32. The Filer is proficient and experienced in holding Crypto Assets and has established and applied policies and procedures that manage and mitigate custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets and a mechanism for the return of the Crypto Assets to clients in the event of bankruptcy or insolvency of the Filer. The Filer also maintains appropriate policies and procedures related to IT security, cyber-resilience, disaster recovery capabilities, and business continuity plans.

**Know-Your-Product (KYP) Policy**

33. The Filer has established and applies policies and procedures to review the Crypto Assets and to determine whether to allow clients on the Platform to enter into Crypto Contracts to buy, sell, stake or hold the Crypto Asset on the Platform in accordance with the know your product (provisions of NI 31-103 (**KYP Policy**)). Such review includes, but is not limited to, publicly-available information concerning:

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

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

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

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

34. The Filer does not allow clients to buy or deposit, or to enter into Crypto Contracts to buy or deposit, Value-Referenced Crypto Assets that do not satisfy the conditions set out in Appendix F.

35. Except for the trading of Value-Referenced Crypto Assets described in representation I.34, the Filer only offers and only allows clients to enter into Crypto Contracts to buy, sell, stake and hold Crypto Assets that are not a security and/or a derivative**.**

36. The Filer does not allow clients to enter into a Crypto Contract to buy, sell and, if applicable, stake Crypto Assets unless the Filer has taken steps to:

    (a) assess the relevant aspects of the Crypto Asset pursuant to the KYP Policy described in representation 33 to determine whether it is appropriate for its clients;

(b) except for permitted clients who have requested in writing that the Filer not make suitability determinations for their accounts, determine that entering into the Crypto Contract to purchase, sell and, if applicable, stake Crypto Assets is suitable for the client;

(c) approve the Crypto Asset, and the Crypto Contracts to buy, sell and, if applicable, stake such Crypto Asset, to be made available to clients; and

(d) monitor the Crypto Asset for significant changes and review its approval under 36(c) where a significant change occurs.

37. As set out in the Filer's KYP Policy, the Filer has established and applies policies and procedures to determine whether a Crypto Asset available to be traded through a Crypto Contract is a security and/or derivative and is being offered in compliance with securities and derivatives laws, which include but are not limited to:

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

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

38. The Filer monitors ongoing developments related to Crypto Assets available on the Platform that may cause a Crypto Asset's legal status as a security and/or derivative or the assessment conducted by the Filer described in representations 33 to 37 above to change.

39. The Filer acknowledges that any determination made by the Filer as set out in representations 33 to 38 above do not prejudice the ability of any of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset that a client may enter into a Crypto Contract to buy, sell, stake, or hold is a security and/or derivative.

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

**Staking Services**

41. The Filer offers Staking Services to its clients through its Staking Affiliates, which operate blockchain validator nodes. The Filer is proficient and knowledgeable about staking Crypto Assets. The Filer or its Custodians remain in possession, custody and control of the staked Crypto Assets at all times.

42. Clients who choose to stake their assets with the Filer receive a share of staking rewards generated from the staking activity.

43. To stake Crypto Assets, a client may use the Filer's website or mobile application to instruct the Filer to stake a specified amount of Crypto Assets eligible for staking that are held by the client on the Platform.

44. The Filer offers two types of Staking Services: Bonded Staking Service and Flexible Staking Service.

45. When offering bonded staking, the Filer commits the full amount of Crypto Assets that a client selects and requests to stake on-chain to the relevant blockchain protocol (the **Bonded Staking Service**). As a result, when a client unstakes, the client will not be able to access their unstaked Crypto Assets until the relevant Lock-Up Period has elapsed.

46. When offering flexible staking, the client will request to stake a certain amount of Crypto Assets. From that amount, the Filer stakes on-chain a portion of the Crypto Assets that its clients have requested to stake, and holds the remaining portion of such Crypto Assets unstaked within the omnibus staking wallet for the relevant Crypto Asset (the **Flexible Staking Service**). The Filer holds a portion of such Crypto Assets to facilitate the immediate return of the Crypto Asset to a client upon a request to unstake their Crypto Assets despite any Lock-Up Period for the Crypto Asset (i.e., the client is able to receive their unstaked Crypto Assets back without waiting for the end of the Lock-Up Period). The Flexible Staking Service is only available for Crypto Assets that are subject to Lock-up Periods.

47. When offering the Flexible Staking Service:

(a) the Filer determines the percentage of Client Assets in staking wallets that is staked on-chain, which varies by asset and is reassessed weekly based on the asset's Lock-Up Period and the concentration of client staking balances by notional value. This process allows the Filer to maintain sufficient liquidity to allow clients to instantly

unstake their balances. The liquidity risk borne by the Filer is also reflected in a lower reward rate for clients using the Flexible Staking Service as compared to the reward rate under the Bonded Staking Service;

(b) the Filer or one of its affiliates provides the liquidity necessary for the Filer to return the Crypto Assets to the clients such that the clients may sell or withdraw Crypto Assets prior to the expiry of Lock-up Periods in accordance with its liquidity management policies and procedures, namely: first, from the Filer's client staking wallet for each Crypto Asset; should Filer's client staking wallet have insufficient unstaked Crypto Assets, from the Filer's or its affiliate's own inventory of Crypto Assets; and should the Filer's client staking wallet and the Filer and its affiliate not have sufficient inventory, with prior notification to clients, by delaying the release of unstaked Crypto Assets for the duration of the Lock-Up Period as agreed to with clients in the Terms of Service; and

(c) the Filer offers a feature which allows clients to automatically stake additional Crypto Assets of the type that are already staked, upon being purchased by the client. The client can enable or disable this feature at any time. For Crypto Assets which are automatically staked, the Filer requires clients to acknowledge having read and accepted the Risk Statement, which includes the risks of staking, and acknowledge the Crypto Asset will be automatically staked after each purchase or deposit.

48. The Filer discloses in the Terms of Service the following differences between the Bonded Staking Service and the Flexible Staking Service so that clients can make an informed decision regarding their preferred staking program:

(a) indicative reward rates for both the Bonded Staking Service and the Flexible Staking Service for each Crypto Asset;

(b) that the maximum amount of rewards that can be earned by clients using the Flexible Staking Service is 50% of rewards paid by the relevant proof-of-stake protocol;

(c) that the Bonded Staking Service stakes all of the assets that a client has elected to stake on-chain to the relevant blockchain protocol, and therefore a client will not be able to access their staked assets until after the applicable Lock-Up Period has elapsed based on the blockchain protocol;

(d) that the Flexible Staking Service stakes only a portion of the client's staked Crypto Assets on-chain and this proportion may change as requests for unstaking are made and the remainder is held for the purpose of maintaining a sufficient amount of Crypto Assets to satisfy unstaking requests from all clients using the Flexible Staking Service; and

(e) that in respect of the Flexible Staking Service, if a client unstakes during a period when an insufficient amount of the relevant Crypto Asset is available to satisfy all unstaking requests from clients, the Filer has discretion to release remaining unstaked assets after the relevant Lock-Up Period has elapsed.

49. Prior to the client obtaining Staking Services from the Filer, the Filer will disclose the following to the client:

(a) The details of the Staking Services and the role of all Staking Affiliates or other third parties involved;

(b) the due diligence performed by the Filer with respect to the proof-of-stake consensus protocol for each Crypto Asset for which the Filer provides the Staking Services;

(c) details of the Validators that will be used for the Staking Services and the due diligence performed by the Filer with respect to the Validators;

(d) the details of whether and how the custody of staked Crypto Assets differs from Crypto Assets held on behalf of the Filer's clients that are not engaged in Staking;

(e) the general risks related to Staking and any risks arising from the arrangements used by the Filer to offer the Staking Services (e.g., reliance on third parties; risk of loss due to technical errors or bugs in the protocol; hacks or theft from the crypto assets being held in hot wallets, etc.) and how any losses will be allocated to clients;

(f) whether the Filer will reimburse clients for any Crypto Assets lost due to slashing or other penalties imposed due to Validator error, action, or inactivity, or how any losses will be allocated to clients;

(g) whether the staked Crypto Assets are subject to any Lock-up Periods; and

(h) how rewards are calculated on the staked Crypto Assets, including any fees charged by the Filer or any Staking Affiliate or third party, how rewards are paid out to clients, and any associated risks.

50. Immediately before each time a client allocates Crypto Assets to be staked, the Filer requires the client to acknowledge the risks of staking Crypto Assets as may be applicable to the particular Staking Service or Crypto Asset, including, but not limited to:

    (a) that the staked Crypto Assets may be subject to a Lock-up Period and, consequently, the client may not be able to sell or withdraw their Crypto Assets for a predetermined or unknown period of time, with details of any known period, if applicable;

    (b) that given the volatility of Crypto Assets, the value of a client's staked Crypto Assets when they are able to sell or withdraw, and the value of any Crypto Assets earned through staking, may be significantly less than the current value;

    (c) how rewards will be calculated and paid out to clients and any risks inherent in the calculation and payout of any rewards;

    (d) that there is no guarantee that the client will receive any rewards on the staked Crypto Assets, and that past rewards are not indicative of expected future rewards;

    (e) whether rewards may be changed at the discretion of the Filer;

    (f) unless the Filer guarantees any Crypto Assets lost to slashing, that the client may lose a portion of the client's staked Crypto Assets if the Validator does not perform as required by the network;

    (g) if the Filer offers a guarantee to prevent loss of any Crypto Assets arising from the Staking Services, including due to slashing, any limits on that guarantee and requirements for a client to claim under the guarantee; and

    (h) that additional risks can be found in the Risk Statement and Crypto Asset Statement, including the names and other information regarding the validators and information regarding Lock-up Periods and rewards, with a link to the Risk Statement and Crypto Asset Statement.

51. The client may at any time use the Filer's website or mobile application to instruct the Filer to unstake a specified amount of Crypto Assets that the client had previously staked. Whether a Lock-up Period applies will depend on whether the Crypto Assets were staked under the Bonded Staking Service or the Flexible Staking Service.

52. When staking Crypto Assets held by a Custodian, the Filer instructs the Custodian to delegate the designated Crypto Assets to validator nodes operated by Staking Affiliates**.** When unstaking Crypto Assets held by a Custodian, the Filer instructs the Custodian to unstake the designated Crypto Assets. In respect of Crypto Assets that are staked by clients under the Bonded Staking Service, after the expiry of any Lock-up Periods that may prevent the assets from being used, the unstaked Crypto Assets may be transferred or withdrawn by the Filer's clients. Unless there is insufficient liquidity, Crypto Assets that are staked by clients under the Flexible Staking Service may be transferred or withdrawn by the Filer's clients prior to the expiry of any Lock-up Period.

53. For staking Crypto Assets held in segregated wallets by the Filer on behalf of clients, the Filer sends instructions to stake or unstake Crypto Assets directly to the Staking Affiliates. When unstaking, in respect of Crypto Assets that are staked by clients under the Bonded Staking Service, the designated assets are available to the Filer's clients after expiry of any applicable Lock-up Periods. Unless there is insufficient liquidity, Crypto Assets that are staked by clients under the Flexible Staking Service may be transferred or withdrawn by the Filer's clients prior to the expiry of any Lock-up Period.

54. Certain Crypto Assets are subject to an activation or bonding period after being staked, during which time the Crypto Assets do not earn any staking rewards. A client will not receive staking rewards in respect of any of their staked Crypto Assets that are still subject to bonding periods. Similarly, in respect of Crypto Assets that are staked by clients under the Bonded Staking Service or in respect of Crypto Assets that are staked by clients under the Flexible Staking Service and there is insufficient liquidity, a client will not receive staking rewards in respect of Crypto Assets that have been unstaked by the client but are still subject to Lock-up or unbonding Periods.

55. Staking rewards are issued periodically and automatically by the blockchain protocol of the Crypto Asset and received directly into the designated wallets held on behalf of the client. Other than any Validator Commission (defined below in representation 58) that may be received by a Validator node under the rules of the blockchain protocol, Staking Affiliates do not receive or otherwise have control over staking rewards earned by clients.

56. The Filer charges a fee to clients using Staking Services based on a percentage of the client's staking rewards. The Filer clearly discloses the fees charged by the Filer for the Staking Services. Staking reward distributions are shown on the Filer's website and mobile application and on clients' account statements.

57. Staking rewards are typically determined by the relevant blockchain protocol for a specific time period (an **Epoch**). The Filer does not promise or guarantee its clients a specific staking reward rate for any Crypto Asset. The Filer does not exercise any discretion to change the rate of rewards issued by the blockchain protocol of each Crypto Asset. When staking rewards are received each Epoch, the Filer promptly determines: (i) the amount of staking rewards earned by each client that had staked Crypto Assets under the Staking Services and credits each client's account accordingly; and (ii) the total amount of the fee payable by clients using the Staking Services and transfers an amount of Crypto Assets equal to the fee to a separate wallet exclusively holding Crypto Assets belonging to the Filer.

58. In accordance with the consensus protocol for certain Crypto Assets, a Validator may receive a percentage of the staking rewards earned by Crypto Assets staked with the Validator (the **Validator Commission**). The Validator Commission is deducted automatically by the underlying blockchain protocol from staking rewards and transferred by the protocol directly to the Validator. Where a Validator Commission applies, the Filer clearly discloses the existence and amount of the Validator Commission to clients using the Staking Services. Where applicable, the Staking Affiliates retain 100% of the Validator Commission, and the Filer calculates the reward payout to each client from the amount remaining after deduction of the Validator Commission.

59. For Crypto Assets that do not have Validator Commissions, the Filer pays a fee to the Staking Affiliates for activating and operating nodes for the Filer's clients using the Staking Services. The Custodians may also collect a fee from the Staking Affiliates. These fees are included in the fee paid by clients to the Filer in connection with the Staking Services.

60. To mitigate the risk of slashing or jailing to clients, the Filer may, where feasible, arrange to stake Crypto Assets across multiple validator nodes operated by Staking Affiliates.

61. The Filer monitors the validator nodes operated by its Staking Affiliates for, among other things, downtime, jailing, and slashing events and takes any appropriate action to protect Crypto Assets staked by clients.

62. The Filer has established and applies policies and procedures that include a review of Crypto Assets made available to clients for Staking and staking protocols related to those Crypto Assets prior to offering the Crypto Assets as part of the Staking Services. The Filer's review includes, at a minimum, the following:

    (a) the Crypto Assets that the Filer proposes to offer for Staking;

    (b) the operation of the proof-of-stake blockchain for the Crypto Assets that the Filer proposes to offer for Staking;

    (c) the staking protocols for the Crypto Assets that the Filer proposes to offer for Staking;

    (d) the risk of loss of the staked Crypto Assets, including from software bugs and hacks of the protocol;

    (e) due diligence with respect to the Validators operated by the Staking Affiliates or third parties, including but not limited to, information about:

        (i) the persons or entities that manage and direct the operations of the Validator,

        (ii) publicly known information about the Validator's reputation and use by others,

        (iii) the approximate amount of Crypto Assets the Validator has staked on its own nodes,

        (iv) the measures in place by the Validator to operate the nodes securely and reliably,

        (v) the financial status of the Validator,

        (vi) the performance history of the Validator, including but not limited to the amount of downtime of the Validator and past history of double signing or double attestation or voting,

        (vii) any losses of Crypto Assets related to the Validator's actions or inactions, including losses resulting from slashing, jailing, or other penalties incurred by the Validator, and

        (viii) any guarantees offered by the Validator against losses including losses resulting from slashing or other penalties and any insurance obtained by the validator that may cover this risk.

63. The Filer's policies and procedures to assess suitability for a client include consideration of the Staking Services to be made available to that client.

64. The Filer will hold the staked Crypto Assets in trust for or for the benefit of its clients in one or more wallets in the name of the Filer for the benefit of the Filer's clients with the Custodians separate and distinct from (i) the assets of the Filer,

the Custodians and the Custodians' other clients; and (ii) the Crypto Assets held for its clients that have not agreed to staking those specific Crypto Assets.

65. The Filer has established policies and procedures that manage and mitigate custodial risks for staked Crypto Assets, including but not limited to, an effective system of controls and supervision to safeguard the staked Crypto Assets.

**Account Opening**

66. Subject to the Filer determining that it is suitable for an account to be opened, the Filer currently makes the Platform available to any person or company which is resident in Canada and successfully completes the Filer's know-your-client (**KYC**) process which satisfies the identity verification requirements applicable to reporting entities under Canadian AML/ATF Law. Each client must (a) be domiciled in Canada; and (b) for each individual who is authorized to give instructions for a client, be 18 years of age or older.

67. The Filer uses technology to facilitate its determination of whether each action by the Filer is suitable for the client (except for permitted clients who have requested in writing that the Filer not make suitability determination for their accounts) before taking such action, including but not limited to before opening an account for a client, entering into a Crypto Contract with a client to purchase or sell Crypto Assets, or providing Staking Services to the client.

68. After completion of the suitability assessment at account opening, a client (except for permitted clients who have requested in writing that the Filer not make suitability determination for their accounts) will receive appropriate messaging about using the Platform to enter into a Crypto Contract, which, in circumstances where the Filer has evaluated that entering into the Crypto Contract with the Filer is not suitable for the client, will include prominent messaging to the client that this is the case and that the client will not be permitted to open an account and enter into the Crypto Contract with the Filer.

69. As part of the account opening process:

    (a) the Filer collects KYC information to verify the identity of the client in accordance with Canadian AML/ATF Law;

    (b) the Filer collects sufficient information to meet its obligations under section 13.3 of NI 31-103, including but not limited to conducting a trade-by-trade suitability assessment for each client except for permitted clients who have requested in writing that the Filer not make suitability determinations for their accounts;

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

        (i) the Crypto Contracts;

        (ii) risks associated with the Crypto Contracts;

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

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

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

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

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

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

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

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

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

(d) the Filer will require clients to agree to the Filer's Terms of Service, which is publicly available on the Filer's website, and wherein it will require or disclose (either directly in the Filer's Terms of Service or in other agreements incorporated therein by reference):

(i) access criteria, including how access is granted, denied, suspended, or terminated and whether there are differences between clients in access and trading;

(ii) risks related to the operation of and trading on the Platform, including loss and cyber-risk;

(iii) the trading hours for the Platform and notice that access to the Platform may be interrupted under certain circumstances, including for service or during times of significant volatility or volume;

(iv) procedures for funding buys and for withdrawing funds held by a client in its account with the Platform;

(v) all fees charged and any compensation provided to the Filer or any affiliate, including foreign exchange rates, spreads, etc.;

(vi) how orders are entered, handled, and interact including:

1. the circumstances where orders trade with the Filer acting as principal, including any compensation provided;

2. where entered into the order book, the types of orders, and how orders are matched and executed;

(vii) policies and procedures relating to error trades, cancellations, modifications and dispute resolution;

(viii) a list of all crypto assets and products available for trading on the Platform, along with the associated Crypto Asset Statements;

(ix) the process for payment and settlement of transactions;

(x) how the Filer safeguards Client Assets, including the extent to which the Filer self-custodies Client Assets, along with the identity of any Acceptable Third-party Custodians relied on by the platform to hold Client Assets;

(xi) that the Filer does not have access arrangements with any third-party services providers other than custodians identified in 69(d)(x);

(xii) requirements governing trading, including prevention of manipulation and other market abuse;

(xiii) that a client must comply with restrictions relating to its use of the Platform, including complying with the trading requirements set out in the Terms of Service and applicable securities laws;

(xiv) that the Filer does not have the power or authority to restrict a client's access to any other marketplace for crypto assets and the Terms of Service do not prohibit, condition or otherwise limit, directly or indirectly, clients of the Filer from effecting transactions on any other marketplace;

(xv) that the potential consequences for a client's Prohibited Use may include:

1. withdrawing the client's right to make any further trades on the Platform,

2. requiring the client to liquidate its Crypto Asset holdings on the Platform in an orderly fashion,

3. when all Crypto Assets have been sold, requiring that the client provide the Filer with wire transfer instructions (to a Canadian financial institution) so that the Filer can return its funds and close its account, and

4. reporting the client's trading activity to relevant securities and law enforcement authorities;

(xvi) conflicts of interest and the policies and procedures to manage or avoid them; and

(xvii) if applicable, the Filer's referral arrangements disclosure (unless included in the Filer's conflicts policies and procedures).

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

71. The Filer has policies and procedures for updating the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts, the Staking Services, Crypto Assets generally, or a specific Crypto Asset, as the case may be. In the event the Risk Statement is updated, existing clients of the Filer are promptly notified and provided with a copy of the updated Risk Statement. In the event a Crypto Asset Statement is updated, existing clients of the Filer are promptly notified through website and mobile application disclosures, with links provided to the updated Crypto Asset Statement.

72. For clients with pre-existing Client Accounts with the Filer at the time of this Decision, the Filer will deliver to the client the Risk Statement and will require the client to provide electronic acknowledgment of having received, read and understood the Risk Statement, at the earlier of (a) before placing their next trade or deposit of Crypto Assets on the Platform and (b) the next time they log in to their account with the Filer. The Risk Statement must be prominent and separate from other disclosures given to the client at that time, and the acknowledgement must be separate from other acknowledgements by the client at that time.

73. A copy of the Risk Statement acknowledged by a client in accordance with representation 70 or 72 will be electronically delivered to the client and will be made available to the client in the same place as the client's other statements on the Platform. The latest version of the Risk Statement will be continuously and easily available to clients on the Platform and upon request.

74. The Filer will make available to prospective clients a link to a separate Crypto Asset Statement on the Filer's website or mobile application for each Crypto Asset offered on the Platform, which will also be available on the Platform. Before a client enters into a Crypto Contract to buy a Crypto Asset, the Filer provides instructions for the client to read the Crypto Asset Statement for the Crypto Asset, which includes a link to the Crypto Asset Statement on the Filer's website or mobile application.

75. Each Crypto Asset Statement clearly explains or includes in plain language the following:

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

(b) a description of the Crypto Asset, including the background of the team that created the Crypto Asset, if applicable;

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

(d) any risks specific to the Crypto Asset;

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

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

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

76. In the event of any update to the Risk Statement, for each existing client that has engaged the Staking Services, the Filer promptly notifies the client of the update and delivers to them a copy of the updated Risk Statement.

77. In the event of any update to a Crypto Asset Statement, for each existing client that has engaged the Staking Services in respect of the Crypto Asset for which the Crypto Asset Statement was updated, the Filer promptly notifies the client of the update and delivers to them a copy of the updated Crypto Asset Statement.

**The Marketplace**

78. The Platform brings together buyers and sellers of Crypto Assets using established, non-discretionary methods under which orders interact with each other, and the buyers and sellers agree to the terms of the trade. In certain Applicable Jurisdictions, the Platform constitutes an ATS under applicable securities legislation while in others, it constitutes an exchange under applicable securities legislation.

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

80. All transactions entered by the client to buy and sell Crypto Assets through the Filer are placed on the Platform through the Filer's website or mobile application. Clients are able to submit buy and sell orders 24 hours a day, seven days a week.

81. Clients may place buy and sell orders using either the Platform's pro feature (the **Pro Feature**) or instant buy/sell feature (the **Instant Buy/Sell Feature**).

82. Each transaction a client undertakes on the Platform results in a bilateral contract between the client and the Filer.

83. The Filer fills client orders by accessing the global central limit order book on the Kraken Global Platform.

84. The Filer offers the Pro Feature by displaying the buy and sell orders available on the Kraken Global Platform order book on the Platform, and allowing clients to enter limit or market buy and sell orders for execution by the Filer, on an agency basis, on behalf of the client (**Pro Orders**).

85. The Filer offers the Instant Buy/Sell Feature by allowing clients to enter a market order with the specified trading pair and quantity after receiving a quote from the Filer that provides indicative trade terms and fees associated with the prospective order. Orders placed using the Instant Buy/Sell Feature are filled by the Filer on a principal basis.

86. The Filer charges transaction fees for the execution of both agency trades placed by clients using the Pro Feature and principal trades placed by clients using the Instant Buy/Sell Feature.

87. All transaction fees are clearly disclosed on the Platform, and clients can verify pricing for Crypto Assets on the Platform against publicly available pricing information on other CTPs.

88. In addition to transaction fees, the Filer charges deposit and withdrawal fees for Crypto Assets and fiat currency consistent with the fees disclosed on the Platform.

89. Clients can fund their account by transferring in fiat currency or Crypto Assets. Clients can transfer in fiat currency by Interac e-transfer, bank wire and other methods, with the minimum and maximum amount for each transfer type set out on the Platform.

90. Clients are charged a withdrawal fee when transferring Crypto Assets out of their Client Account to a blockchain address specified by the client. The withdrawal fee is a flat fee for all Crypto Assets and fiat withdrawals and is disclosed on the Platform under "Fees." The total withdrawal fee payable in respect of a withdrawal is disclosed to the client prior to confirmation of the withdrawal.

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

92. Clients can transfer fiat currency out of their Client Accounts by e-transfer, electronic funds transfer or bank wire, subject to a withdrawal fee disclosed on the Platform under "Fees" and incorporated by reference into Terms of Service. Part of the withdrawal fee covers fees charged by the Filer's payment processor to process the withdrawal transaction. The total withdrawal fee payable in respect of a fiat currency withdrawal is disclosed to the client prior to confirmation of the withdrawal.

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

94. The Filer establishes, maintains and ensures compliance with policies and procedures for addressing and escalating complaints internally or to the regulators, as applicable, and governing the cancellation, variation or correction of trades executed through the Platform.

**Order and Trade Information**

95. The Filer establishes, maintains, and applies policies and procedures relating to confidentiality, information containment and the supervision of trading in Crypto Contracts and Crypto Assets by individuals acting on behalf of the Filer and to maintain material non-public information about Crypto Contracts and Crypto Assets in confidence.

96. The Filer establishes, maintains, and applies policies and procedures to safeguard the confidentiality of client information, including information relating to their trading activities.

97. The Filer provides for an appropriate level of transparency regarding the orders and trades on the Platform, including that:

    (a) The Filer displays on its website a Canadian dollar price chart for each Crypto Asset on which members of the public can view historic pricing information over a daily, weekly, one month and one year period or over the entire available price history of the Crypto Asset; and

    (b) Clients using the Platform can view the 50 latest trades (streaming) and 50 order book price points (25 buy and 25 sell) allowing clients to make informed investment and trading decisions.

98. The Filer discloses information reasonably necessary to enable a person or company to understand the marketplace operations or services, including the information listed in representations 69(d) and 78 to 94.

**Market Integrity**

99. The Filer has taken reasonable steps to ensure that it operates a fair and orderly marketplace for Crypto Contracts, including the establishment of price and volume thresholds for orders entered on the Platform.

100. The Filer does not expect trading on the Platform to have a material impact on the global market for any Crypto Asset available through the Platform.

101. The Filer does not provide a client with access to the Platform unless it has the ability to terminate all or a portion of a client's access, if required.

102. The Filer has the ability to cancel, vary or correct trades and make public, fair and appropriate policies governing the cancellation, variation or correction of trades on the Platform, including in relation to trades where the Filer executes the trade on a principal basis.

103. The Filer has established, maintains and ensures compliance with policies and procedures and maintains staff knowledge and expertise, and systems to monitor for and investigate potential instances of trading on the Platform that does not comply with applicable securities legislation (including prohibitions against market manipulation, insider trading and other abusive trading prohibitions) or any trading requirements set out in the Terms of Service, and has appropriate provisions and mechanisms for escalation of identified issues of non-compliance, including referral to the applicable securities regulatory authority where appropriate, to allow the Filer to take any resulting action considered appropriate to promote a fair and orderly market and address potential breaches of applicable securities legislation relating to trading on the Platform, which may include halting trading or limiting a client's activities on the Platform.

104. The policies and procedures referred to in the preceding paragraph include policies and procedures to track, review and take appropriate action in the context of complaints and reports from clients of potential instances of abusive trading on the Platform.

105. The Filer currently conducts surveillance of the Platform, which includes both automated and manual processes, for detecting abusive trading (including wash trading) and fraudulent activity. The Filer anticipates continuing development of its market surveillance software after becoming registered as a restricted dealer and commencing discussions with CIRO.

106. The Filer does not, and will not, offer margin, credit or otherwise offer leverage to clients, and will not offer derivatives based on Crypto Assets, other than Crypto Contracts. The Filer does not allow clients to enter into a short position with respect to any Crypto Asset.

107. Orders placed by clients using the Instant Buy/Sell Feature are filled by the Filer on a principal basis. The Instant Buy/Sell Feature involves the Filer providing a quote to the client with indicative trade terms and fees associated with the prospective order.

108. The Filer executes Pro Orders on behalf of clients on an agency basis and they are settled to the client’s account immediately upon execution. The Pro Feature involves the operation by the Filer of an order book displaying buy and sell orders available on the Kraken Global Platform order book that facilitates the matching of client orders.

109. The Filer provides information to each client regarding the status of the client's orders and resulting trades. The Filer provides sufficient information to facilitate clients' trading decisions. The Filer also provides information to clients to allow them to understand how orders are handled and executed, how trades are priced and any associated fees applied by the Filer in the context of a trade.

110. The Filer clears and settles trades on the Platform in the manner described below under "Clearing and Settlement" and by recording appropriate transfers between segregated client wallets held by the Filer, the Filer's Custodians and the Filer's cash custodians.

111. The Platform does not enable short selling, as the Platform does not implement a sell order unless the client holds the requisite Crypto Assets with the Filer.

112. The Filer has established and will maintain and apply effective policies and procedures to prevent fraud and market manipulation in connection with the Platform, including through policies and procedures to monitor for and investigate potential instances of abusive trading. Certain features of the Platform also help to limit the opportunities for fraud or market manipulation. These features include:

    (a) limiting the use of the Platform to approved clients;

    (b) only allowing orders to be entered by authorized users;

    (c) not displaying orders entered on the Platform or the Kraken Global Platform to other clients;

    (d) using price-time priority to price trades via the Kraken Global Platform;

    (e) hiding trade details for transactions executed between the Filer and a client from all of its other clients and from public view; and

    (f) prohibiting the crossing of trades between accounts of the same client.

**Clearing and Settlement**

113. In Ontario, the Filer will not operate a "clearing agency" or a "clearing house" as the terms are defined or referred to in securities or commodities futures legislation.

114. After a trade has been executed on behalf of a client by the Filer, the client's account on the Platform is immediately debited by the amount of the fiat or Crypto Asset sold, and credited by the amount of the fiat or Crypto Asset purchased by the client (less any fees) on a delivery versus payment basis. This settlement process may occur between two client accounts on the Platform, or between one client account on the Platform and a client account in another jurisdiction operated by a Payward Group affiliate. Upon completion of this settlement process, the updated balances in the accounts on both sides of the trade are available to the respective clients.

115. An internal ledger of the Filer (the **Ledger**) records all of the transactions executed via the Platform. In order for a client to execute an order, their account must be pre-funded with the applicable asset (fiat currency or Crypto Asset). When a client's order is executed through the Platform, the Ledger is updated in real-time. Because all assets are already verified as being available from both the buyer and the seller prior to order execution, all Crypto Contracts are settled as between the Filer and each client immediately after the order is filled. Execution occurs on the Platform and settlement is immediate and recorded in the Ledger.

116. Each day, the Filer's net asset balances of each Crypto Asset and fiat currency are updated to reflect the day's transactions in the Ledger. The Filer then rebalances (a) client Crypto Assets held with the Custodians, and (b) client cash positions held at the Filer's cash custodians, to match its Ledger balances.

117. The Filer has risk management controls in place to minimize the risk that clearing and settlement of trades will not be in compliance with the Filer's rules, policies and procedures. Importantly, all Crypto Assets and fiat currency which underlie the Crypto Contracts traded by the Filer's clients are in the custody and control of the Custodians, the Filer's cash custodians or the Filer at all times.

**Conflicts of Interest**

118. The Filer establishes, maintains, and applies policies and procedures to identify existing material conflicts of interest, and material conflicts of interest that the Filer in its reasonable opinion would expect to arise, between the Filer, including each individual acting on behalf of the Filer, and its clients.

119. The Filer addresses existing or potential conflicts of interest identified in representation 118 in the best interests of the client. If a client, acting reasonably, would expect to be informed of a conflict of interest identified in representation 118,

the Filer will disclose, in a timely manner, the nature and extent of the conflict of interest to a client whose interest conflicts with the interest identified.

120. The Filer identifies and addresses material conflicts of interest arising from the operation of the marketplace and the related services it provides, including conflicts between the interests of its owners, its commercial interests and the responsibilities and sound functioning of the Marketplace Services and, if applicable, any clearing and settlement services.

**Books and Records**

121. The Filer keeps books and records and other documents to accurately record its business activities, financial affairs and client transactions, and to demonstrate the Filer's compliance with applicable requirements of securities legislation, including but not limited to:

(a) a record of all clients and prospective clients granted or denied access to the Platform;

(b) daily trading summaries of all Crypto Assets traded, with transaction volumes and values;

(c) records of all orders and trades, including the price, volume, times when the orders are entered, matched, cancelled or rejected, and the identifier of the client that entered the order or that was counterparty to the trade; and

(d) records of assets held on behalf of clients, including the location of such assets, with such assets regularly reconciled to the records of the Acceptable Third-party Custodians or to the assets held by the Filer.

**Marketplace Filings**

122. In certain jurisdictions, the Kraken Global Platform is a "marketplace" as that term is defined in NI 21-101 and in Ontario, subsection 1(1) of the *Securities Act* (Ontario). Because Canadian clients can only access the Kraken Global Platform through though the Platform as clients of the Filer, the Filer is considered to be operating a marketplace in Canada.

**Systems and Internal Controls**

123. The Filer maintains, updates, and tests a business continuity plan, including emergency procedures, and a plan for disaster recovery that provides for the timely recovery of operations and fulfillment of its obligations with respect to the Platform, including in the event of a wide-scale or major disruption.

124. The Filer establishes, maintains, and applies policies, procedures, and controls to manage risks, including systemic risk, legal risk, credit risk, liquidity risk, general business risk, custody and investment risk and operational risk.

125. Without limiting the foregoing, the Filer:

(a) has effective information technology controls, including (without limitation) controls for systems operations, security, problem management, network support, and systems software support;

(b) has effective security controls to prevent, detect, and respond to security threats and cyber-attack on its systems that support trading and settlement services;

(c) has effective business continuity and disaster recovery plans;

(d) in accordance with prudent business practice, and on a reasonably frequent basis (at least annually) it:

(i) makes reasonable current and future systems capacity estimates,

(ii) conducts capacity stress tests to determine the ability of its order entry and execution systems to process transactions in an accurate, timely, and efficient manner,

(iii) tests its business continuity and disaster recovery plans, and

(iv) reviews system vulnerability and its cloud-hosted environment to mitigate internal and external cyber threats; and

(e) continuously monitors and maintains internal controls over their systems, including systems that support order entry and execution.

126. The Filer has policies and procedures and internal controls in place to identify and prevent fraudulent transactions. These policies and procedures:

(a) ensure the Filer is complying with:

(i) the *United Nations Act* (Canada),

(ii) the *Special Economic Measures Act* (Canada), and

(iii) the *Justice for Victims of Corrupt Foreign Officials Act* (Canada).

(b) identify and prohibit users from engaging in activity with designated individuals and entities, such as terrorists and narcotics traffickers, as well as some countries, which have been specially designated by applicable government and regulatory agencies.

(c) along with internal controls, ensure compliance with Canadian AML/ATF Law. Money laundering and terrorist financing refers to the use of the financial system to disguise proceeds of illicit activity, like funding the financial support of terrorism.

**Capital Requirements**

127. The Filer will exclude from the excess working capital calculation all the Crypto Assets it holds for which there is no offsetting by a corresponding current liability, such as Crypto Assets held for its clients as collateral to guarantee obligations under Crypto Contracts, included on line 1, *Current assets,* of Form 31-103F1. This will result in the exclusion of all the Crypto Assets inventory held by the Filer from Form 31-103F1 (Schedule 1, line 9).

**Payward, Inc.**

128. Payward does not offer margin, credit or otherwise offer leverage to any resident of Canada and does not offer Crypto Contracts or derivatives based on Crypto Assets to any resident of Canada. Payward does not allow clients to enter into a short position with respect to any Crypto Asset.

129. Payward has established and maintains and applies effective policies and procedures to prevent fraud and market manipulation in connection with the Kraken Global Platform, including through policies and procedures to monitor for and investigate potential instances of abusive trading. These policies and procedures:

(a) Ensure Payward is complying with

(i) Sanctions laws and regulations administered by the U.S. Department of the Treasury's Office of Foreign Assets Control

(ii) Other applicable sanctions laws and regulations in the jurisdictions in which Payward operates, including:

1. The *United Nations Act* (Canada)

2. The *Special Economic Measures Act* (Canada), and

3. the *Justice for Victims of Corrupt Foreign Officials Act* (Canada).

(b) identify and prohibit users from engaging in activity with designated individuals and entities, such as terrorists and narcotics traffickers, as well as some countries, which have been specially designated by applicable government and regulatory agencies.

(c) along with internal controls, ensure compliance with Canadian anti-money laundering and terrorist financing legislation (including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada)). Money laundering and terrorist financing refers to the use of the financial system to disguise proceeds of illicit activity, like funding the financial support of terrorism.

130. Payward keeps, and has established and maintains policies that address the maintenance of, books and records and other documents to accurately record its business activities, financial affairs and client transactions, including, but not limited to:

(a) Records of all trades, including the product, quotes, executed price, volume, time when the order is entered, matched, canceled, or rejected, and

(b) The identifier of the authorized user that entered the order.

131. Payward has agreed to establish and maintain policies that address and escalate complaints and that govern the cancellation, variation and correction of trades executed on the Kraken Global Platform that may affect a Canadian client.

132. Payward maintains, updates, and tests a business continuity plan, including emergency procedures, and a plan for disaster recovery that provides for the timely recovery of operations and fulfillment of its obligations with respect to the Kraken Global Platform, including in the event of a wide-scale or major disruption.

133. Payward establishes, maintains, and applies policies, procedures, and controls to manage risks, including systemic risk, legal risk, credit risk, liquidity risk, general business risk, custody and investment risk, and operational risk.

134. Payward has and applies risk management policies and procedures and internal controls in place to minimize the risk that clearing and settlement of trades between Payward and the Filer will not be in compliance with the Filer's rules, policies and procedures as set out in representations 114 to 117 above.

135. Payward maintains and applies effective internal controls over systems that support the Kraken Global Platform, including internal controls to ensure that its systems function properly and have adequate capacity and security.

136. Payward maintains and applies effective information technology controls to support the Kraken Global Platform, including controls relating to operations, information security, cyber resilience, change management, network support and system software support.

137. Payward is not in default of securities legislation in any jurisdiction in Canada except in respect of accepting orders routed by Payward Canada to the Kraken Global Platform prior to the date of this Decision.

**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. Each of the Coordinated Review Decision Makers is satisfied that the Decision in respect of the Marketplace Relief and Trade Reporting Relief, as applicable, satisfies the test set out in the securities legislation of its jurisdiction for the relevant regulator or securities regulatory authority to make the Decision in respect of the Marketplace Relief and Trade Reporting Relief, as applicable.

The Decision of the Principal Regulator under the Legislation is that the Requested Relief is granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation of its jurisdiction is that the Marketplace Relief and Trade Reporting Relief is granted, provided that:

A. Unless otherwise exempted by a further decision of the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other Applicable Jurisdiction, the Filer complies with all of the terms, conditions, restrictions, and requirements applicable to a registered dealer under securities legislation, and any other terms, conditions, restrictions, or requirements imposed by a securities regulatory authority or regulator on the Filer.

B. The Filer is registered as a restricted dealer or investment dealer in the Jurisdiction and the Non-Principal Jurisdiction(s) in which the Filer’s clients are resident.

C. In each of the Applicable Jurisdictions where the Platform constitutes an exchange under applicable securities legislation, the Filer will seek an exemption from the obligation to be recognized as an exchange within one month of the date of this Decision.

D. The Filer will only engage in business activities governed by securities legislation as described in the representations above. The Filer will seek the appropriate approvals from the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any Non-Principal Jurisdiction, prior to undertaking any other activity governed by securities legislation. The Filer will not offer derivatives based on Crypto Assets other than Crypto Contracts.

E. At no time will the Filer be liable for any debt of an affiliate or affiliates that could have a material negative effect on the Filer.

F. The Filer is not permitted to and does not pledge, re-hypothecate or otherwise use any Crypto Assets held on behalf of its clients.

G. At all times, the Filer will hold not less than 80% of the total value of all Crypto Assets held on behalf of clients with one or more custodians that meets the definition of an Acceptable Third-party Custodian, unless the Filer has obtained the prior written approval of the Principal Regulator to hold a different percentage with an

Acceptable Third-party Custodian or has obtained the prior written approval of the Principal Regulator and the regulator or securities regulatory authority of the Non-Principal Jurisdictions to hold at least 80% of the total value of clients' Crypto Assets with an entity that does not meet certain criteria of an Acceptable Third-party Custodian.

H. Before the Filer holds Crypto Assets with a custodian referred to in condition G, the Filer will take reasonable steps to verify that the custodian:

(i) has appropriate insurance to cover the loss of Crypto Assets held at the custodian;

(ii) has established and applies written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian;

(iii) will hold the Crypto Assets for its clients (i) in an account clearly designated for the benefit of its clients or in trust for its clients, (ii) separate and apart from its own assets and from the assets of any custodial service provider, and (iii) separate and apart from the assets of non-Canadians; and

(iv) meets each of the requirements to be an Acceptable Third-party Custodian, except for those criteria in respect of which the custodian does not meet and the Principal Regulator and the regulator or securities regulatory authority of the Non-Principal Jurisdictions have provided prior written approval for use of the custodian.

I. During any period when the Filer holds Crypto Assets with ADB and ADB's most recent audited financial statements indicate that ADB does not have equity of at least $100,000,000, the Filer will take reasonable steps to verify the following:

(i) Anchor Labs has provided to ADB a guarantee in the amount of $100,000,000 that will be made available to ADB in connection with ADB's custodial obligations (the **Parental Guarantee**);

(ii) ADB has entered into an agreement with Anchor Labs in which Anchor Labs agrees to the following:

1. to hold cash and cash equivalents in an amount sufficient to satisfy its obligations under the Parental Guarantee;

2. to report regularly and not less frequently than at each quarterly board meeting to ADB on the amount of cash and cash equivalents maintained by Anchor Labs;

3. to promptly notify ADB if the amount of cash and cash equivalents maintained by Anchor Labs falls below the amount sufficient to satisfy its obligations under the Parental Guarantee; and

4. to make available to the Principal Regulator, promptly upon request of the Principal Regulator and in the form and manner as may be reasonably requested, books and records regarding the activities and financial circumstances of ADB, Anchor Labs and their subsidiaries and affiliates.

(iii) ADB has policies and procedures in place

1. to monitor the cash and cash equivalents maintained by Anchor Labs;

2. to notify the Filer and the Principal Regulator within 2 business days of any of the following:

A) the Parental Guarantee no longer being in effect; or

B) Anchor Labs no longer having cash and cash equivalents in an amount sufficient to satisfy the Parental Guarantee; and

3. to promptly notify the Principal Regulator if ADB no longer forecasts that it will meet the equity requirement for a foreign custodian within three (3) years of the date of the Decision in accordance with representation 22(h).

J. The Filer will cease to use ADB if the Parental Guarantee is no longer in effect or Anchor Labs no longer has cash or cash equivalents in an amount sufficient to satisfy its obligations under the Parental Guarantee. In such case, the Filer will identify a suitable alternative custody provider that meets the definition of an Acceptable Third-party Custodian to hold the Crypto Assets.

K. The Filer will promptly notify the Principal Regulator if the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, the New York State Department of Financial Services, the South Dakota Division of Banking or the Office of the Comptroller of the Currency, makes a determination that the Filer's custodian is not permitted by that regulatory authority to hold clients' Crypto Assets. In such case, the Filer will identify a suitable alternative custody provider that meets the definition of an Acceptable Third-party Custodian to hold the Crypto Assets.

L. For the Crypto Assets held by the Filer on behalf of its clients, the Filer:

(i) will hold the Crypto Assets for its clients in trust for the benefit of its clients, and separate and apart from the assets of the Filer;

(ii) will ensure there is appropriate insurance to cover the loss of Crypto Assets held by the Filer; and

(iii) will have established and apply written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian.

M. Before each prospective client opens an account, the Filer will deliver to the client a Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement.

N. For clients with pre-existing accounts with the Filer at the time of this Decision, the Filer will deliver to the client a Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement at the earlier of (i) before placing their next trade or deposit of Crypto Assets on the Platform and (ii) the next time they log in to their account with the Filer.

O. The Risk Statement delivered as set out in conditions M and N to new clients or clients with pre-existing accounts on the date of this Decision will be prominent and separate from other disclosures given to the client at the time the Risk Statement is delivered, and the acknowledgement will be separate from other acknowledgements given by the client at that time.

P. A copy of the Risk Statement acknowledged by a client will be made available to the client in the same place as the client's other statements on the website and in the mobile app. The latest version of the Risk Statement will be continuously and easily available to clients on the website and in the mobile app.

Q. Before a client enters into a Crypto Contract to buy a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Filer's website or mobile application and includes the information set out in representation 75.

R. Existing clients at the time of the Decision will be provided with links to the Crypto Asset Statements. The Crypto Asset Statements will be accessible by all clients on the Filer's website or mobile application.

S. The Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts and/or Crypto Asset, and,

(i) in the event of any update to the Risk Statement, will promptly notify each existing client of the update and deliver to them a copy of the updated Risk Statement; and

(ii) in the event of any update to a Crypto Asset Statement, will promptly notify clients through in-App and website disclosures, with links provided to the updated Crypto Asset Statement.

T. Prior to the Filer delivering a Risk Statement to a client, the Filer will deliver, or will have previously delivered, a copy of the Risk Statement delivered to the client to the Principal Regulator.

U. The Filer will ensure that the maximum amount of Crypto Assets, excluding Specified Crypto Assets, that a client, other than clients resident in Alberta, British Columbia, Manitoba, Québec, and Saskatchewan, may enter into Crypto Contracts to purchase and sell on the Platform (calculated on a net basis and is an amount not less than $0) in the preceding 12 months:

(i) in the case of a client that is not an Eligible Crypto Investor, does not exceed a net acquisition cost of $30,000;

(ii) in the case of a client that is an Eligible Crypto Investor, but is not an Accredited Crypto Investor does not exceed a net acquisition cost of $100,000; and

(iii) in the case of an Accredited Crypto Investor, is not limited.

V. In the jurisdictions where the Prospectus Relief is required, the first trade of a Crypto Contract is deemed to be a distribution under securities legislation of that jurisdiction.

W. The Filer will provide the Principal Regulator with at least 10 days' prior written notice of any:

(i) change of or use of a new custodian; and

(ii) material changes to the Filer's ownership, its business operations, including its systems, or its business model.

X. The Filer will provide at least 45 days advance notice to the Principal Regulator for any material or significant changes to the Form 21-101F2 information filed as described in condition PP, except in relation to changes to Exhibit L – Fees, in which case the Filer will provide at least 15 days' advance notice. Such notice will take the form of an amendment to Form 21-101F2 describing the change. The Filer will not implement a material or significant change unless the amendment describing such change has been delivered within the prescribed timeframe.

Y. The Filer will evaluate Crypto Assets as set out in representations 33 to 38.

Z. The Filer will only trade with clients Crypto Assets or Crypto Contracts in relation to Crypto Assets that are:

(i) not securities or derivatives or

(ii) Value-Referenced Crypto Assets provided that the Filer does not allow clients to buy or deposit, or enter into Crypto Contracts or buy or deposit, Value-Referenced Crypto Assets that do not satisfy the terms and conditions set out in Appendix F.

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

BB. The Filer will not trade Crypto Assets or Crypto Contracts in relation to Crypto Assets with a client in an Applicable Jurisdiction, where the Crypto Asset was issued by or on behalf of a person or company that is or has in the last five years been the subject of a publicly announced order, judgment, decree, sanction, fine or administrative penalty imposed by, or has entered into a publicly announced settlement agreement with, a government or government agency, administrative agency, self-regulatory organization, administrative tribunal or court in Canada or in a Specified Foreign Jurisdiction in relation to a claim based in whole or in part on fraud, theft, deceit, aiding and abetting or otherwise facilitating criminal activity, misrepresentation, violation of AML laws, conspiracy, breach of trust, breach of fiduciary duty, insider trading, market manipulation, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar or analogous conduct.

CC. Except to allow clients to liquidate their positions in those Crypto Contracts or transfer such Crypto Assets to a blockchain address specified by the client or with the prior written consent of the Principal Regulator, the Filer will promptly stop trading Crypto Contracts where the underlying is a Crypto Asset if (i) the Filer determines it to be, (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada or the foreign jurisdiction with which the Crypto Asset has the most significant connection determines it to be or (iii) the Filer is made aware or is informed that the Crypto Asset is viewed by a regulator or securities regulatory authority to be, (a) a security and/or a derivative or (b) a Value-Referenced Crypto Asset that does not satisfy the conditions set out in condition Z.

DD. The Filer will exclude from the excess working capital calculation all the Crypto Assets it holds for which there is no offsetting by a corresponding current liability, as described in representation 127.

**Financial Viability**

EE. The Filer will maintain sufficient financial resources for the proper operation of the marketplace and the clearing or settlement services, and for the performance of these functions in furtherance of its compliance with these terms and conditions.

FF. The Filer will notify the Principal Regulator immediately upon becoming aware that the Filer does not or may not have sufficient financial resources in accordance with the requirements of condition EE.

**Trading Limits**

GG. The Filer will not submit orders on a proprietary basis, other than in connection with offsetting trades relating to client orders that are executed on a principal basis, or as it otherwise deems appropriate for the delivery of its services. For clarity, at no time shall the Filer trade against its clients for speculative purposes.

**Marketplace Activities – Fair Access**

HH. The Filer will not unreasonably prohibit, condition or limit access of clients to the Platform.

II. The Filer will ensure that Payward does not unreasonably prohibit, condition or limit access of clients to the Platform.

JJ. Any person or company resident in Canada must access the Kraken Global Platform, including for Marketplace Services and the clearing or settlement services, through the Platform.

KK. The Filer will ensure that Payward does not permit unreasonable discrimination with respect to the Filer's clients in relation to the Kraken Global Platform.

**Marketplace Activities – Market Integrity**

LL. The Filer will take reasonable steps to ensure its operations do not interfere with fair and orderly markets in relation to the Platform.

MM. The Filer will not provide access to the Platform unless it has the ability to terminate all or a portion of a client's access, if required.

NN. The Filer will maintain accurate records of all of its trade monitoring and complaint handling activities in relation to the Platform, and of the reasons for actions taken or not taken. The Filer will make such records available to the Principal Regulator upon request.

OO. The Filer must monitor each client's compliance with restrictions relating to its use of the Platform, including complying with the trading requirements set out in the Terms of Service and applicable securities laws, avoiding Prohibited Uses or breaches of securities law and reporting, as appropriate, to the applicable securities regulatory authority or regulator.

PP. The Filer will file within 120 days of the Decision date with the Principal Regulator completed exhibits to the Form 21-101F2 for each of the following:

(a) Exhibit E – Operations of the Marketplace;

(b) Exhibit F – Outsourcing;

(c) Exhibit G – Systems and Contingency Planning;

(d) Exhibit H – Custody of Assets;

(e) Exhibit I – Securities;

(f) Exhibit J – Access to Services; and

(g) Exhibit L – Fees.

**Marketplace Activities - Conflicts of Interest**

QQ. When the Filer or an affiliate trades with the Filer's clients on a principal basis, the Filer will ensure that its clients receive fair and reasonable prices.

RR. The Filer will annually review compliance with the policies and procedures that identify and manage conflicts of interest described in representations 118 to 120 and will document in each review any deficiencies that were identified and how those deficiencies were remedied.

**Marketplace Activities – Transparency of Operations and of Order and Trade Information**

SS. The Filer will maintain public disclosure of the information outlined in representation 69(d) in a manner that reasonably enables a person or company to understand the marketplace operations or services.

TT. For orders and trades entered into and executed on the Platform, the Filer will make available to clients an appropriate level of information regarding those orders and trades in real-time to facilitate clients' investment and trading decisions, as described in representation 97.

UU. The Filer will make publicly available on its website, on a timely basis, an appropriate level of information about trades that have occurred on the Platform, as described in representation 97.

**Marketplace Activities – Confidentiality**

VV. The Filer will not release a client's order or trade information to a person or company, other than the client, a securities regulatory authority or a regulation services provider unless:

(i) the client has consented in writing to the release of the information;

(ii) the release is made under applicable law; or

(iii) the information has been publicly disclosed by another person or company and the disclosure was lawful.

WW. Despite condition VV, the Filer may release a client's order and trade information to Payward provided the Filer has a written agreement with Payward in which Payward agrees not to release the Filer's client's order and trade information unless permitted under condition VV.

**Notification to Principal Regulator**

XX. The Filer will promptly notify the Principal Regulator and indicate what steps have been taken by the Filer to address the situation should any of the following occur:

(i) any failure or breach of systems of controls or supervision that has a material impact on the Filer, including when they

1. involve the Filer's business;

2. involve the services or business of an affiliate of the Filer;

3. Involve the Acceptable Third-party Custodian;

4. are cybersecurity breaches of the Filer, an affiliate of the Filer, or services that impact the Filer; or

5. are a malfunction, delay, or security breach of the systems or controls relating to the operation of the marketplace or clearing or settlement functions.

(ii) any amount of specified Crypto Assets are identified as lost;

(iii) any investigations of, or regulatory action against, the Filer, or an affiliate of the Filer, by a regulatory authority in any jurisdiction in which it operates which may impact the operations of the Filer;

(iv) details of any litigation instituted against the Filer, or an affiliate of the Filer, which may impact the operations of the Filer;

(v) notification that the Filer, or an affiliate of the Filer, has instituted a petition for a judgment of bankruptcy, insolvency, or similar relief, or to wind up or liquidate the Filer, or an affiliate of the Filer, or has a proceeding for any such petition instituted against it; and

(vi) the appointment of a receiver or the making of any voluntary arrangement with a creditors.

**Books and Records**

YY. The Filer will keep books, records and other documents reasonably necessary for the proper recording of its business and to demonstrate the Filer's compliance with the Legislation and the conditions of this Decision, including, but not limited to, records of all orders and trades, including the product, price, volume, time when the order is entered, matched, cancelled or rejected, any reference pricing used to assign prices to trades, and the identifier of any authorized user that entered the order.

ZZ. The Filer will maintain the aforementioned books, records and other documents in electronic form and promptly provide them in the format and at the time requested by the Principal Regulator pursuant to the Legislation. Such books, records and other documents will be maintained by the Filer for a minimum of seven years.

**Systems and internal controls**

AAA. The Filer will maintain effective internal controls over systems that support the Platform including internal controls to ensure that its systems function properly and have adequate capacity and security.

BBB. The Filer will maintain effective information technology controls to support the Platform including controls relating to operations, information security, cyber resilience, change management, network support and system software support.

CCC. The Filer will maintain, update and test a business continuity plan, including emergency procedures, and a plan for disaster recovery that provides for the timely recovery of operations and fulfilment of its obligations with respect to the Platform including in the event of a wide-scale or major disruption.

**Clearing and Settlement Activities**

DDD. For any clearing or settlement activity conducted by the Filer, the Filer will:

(i) maintain adequate procedures and processes to ensure the provision of accurate and reliable settlement services in connection with Crypto Assets;

(ii) maintain appropriate risk management policies and procedures and internal controls to minimize the risk that settlement will not take place as expected;

(iii) limit the provision of clearing and settlement services to Crypto Assets and fiat currency which underlie the Crypto Contracts traded on the Platform; and

(iv) limit the provision of clearing and settlement services to clients of the Filer, and, to the extent applicable, other Payward Group entities in relation to trades executed on the Platform.

**Staking**

EEE. The Filer will comply with the terms and conditions in Appendix C in respect of the Staking Services.

FFF. The Filer will cease to offer the Flexible Staking Service to any new Client Accounts opened on or after the Decision date and to any existing clients that have not engaged in the Flexible Staking Service.

GGG. The Filer will present further information regarding the Flexible Staking Service to the securities regulatory authorities or regulators in Applicable Jurisdictions. Unless otherwise agreed to in writing by the Principal Regulator, the Filer will cease to offer the Flexible Staking Service to all Client Accounts by 120 days after the date of this Decision.

**Reporting**

HHH. The Filer will deliver the reporting as set out in Appendix D.

III. The Filer will deliver to the regulator or the securities regulatory authority in each of the Applicable Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, a report that includes the following aggregated quarterly information relating to trading activity on the Platform within 30 days of the end of each March, June, September and December:

(i) total number of trades and total traded value on a by pair basis, with each such reported value further broken out by the proportion of trades and traded value that were a result of trades between two clients compared to trades between a client and the Filer or affiliate of the Filer.

(ii) total number of executed client orders and total value of executed client orders on a by pair basis, with each such reported value further broken out by the proportion of executed market orders compared to executed limit orders.

JJJ. The Filer will provide to the Principal Regulator quarterly summary statistics on its trade monitoring and complaint handling activities in relation to the Platform, including the following: the number of instances of improper trading activity identified, by category, and the proportion of each such category that arose from client complaints or reports;

(i) the number of instances in (i) that were further investigated or reviewed, by category;

(ii) the number of investigations in (ii), by category, that were closed with no action;

(iii) a summary of each investigation in (iii) that was escalated for action to be taken, including a description of the action taken in each case; and

(iv) a summary of the status of any open investigations.

KKK. The Filer will provide certain reporting in respect of the preceding calendar quarter to its Principal Regulator within 30 days of the end of March, June, September and December in connection with the Staking Services, including, but not limited to:

(i) the total number of clients to which the Filer provides the Staking Services, broken down by Bonded Staking Service and Flexible Staking Service;

(ii) the Crypto Assets for which the Staking Services are offered, broken down by Bonded Staking Service and Flexible Staking Service;

(iii) for each Crypto Asset that may be staked:

1. the amount of Crypto Assets staked,

2. the amount of each such Crypto Assets staked that is subject to a Lockup Period and the length of the Lock-up Period;

3. the amount of Crypto Assets that clients have requested to unstake; and

4. the amount of rewards earned by the Filer and the clients for the Crypto Assets staked under the Staking Services;

(iv) the names of any third parties used to conduct the Staking Services;

(v) any instance of slashing, jailing or other penalties being imposed for validator error,

(vi) the details of why these penalties were imposed;

(vii) in respect of the Flexible Staking Service, a detailed description of all instances in which a client requested to unstake their Crypto Assets and was subject to the Lock-up Period; and

(viii) any reporting regarding the Filer's liquidity management as requested by the Principal Regulator.

LLL. The Filer will deliver to the Principal Regulator, within 30 days of the end of each March, June, September and December, either:

(i) blackline copies of changes made to the policies and procedures on the operations of its wallets (including, but not limited to, establishment of wallets, transfer of Crypto Assets into and out of the wallets and authorizations to access the wallets) previously delivered to the Principal Regulator; or

(ii) a nil report stating no changes have been made to its policies and procedures on the operations of its wallets in the quarter.

MMM. In addition to any other reporting required by the Legislation, the Filer will provide, on a timely basis, any report, data, document or information that the Filer has available or would be reasonably expected to have available to the Principal Regulator, including any information about the Filer's Acceptable Third-party Custodian(s) and the Crypto Assets held by the Filer's Acceptable Third-party Custodian(s), that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with the Legislation, in a format acceptable to the Principal Regulator. Unless otherwise prohibited under applicable law, the Filer will share with the Principal Regulator information relating to regulatory and enforcement matters that will materially impact its business.

NNN. Upon request, the Filer will provide the Principal Regulator and the securities regulators or securities regulatory authorities of each of the Non-Principal Jurisdictions with aggregated and/or anonymized data concerning client demographics and activity on the Platform that may be useful to advance the development of the Canadian regulatory framework for trading Crypto Assets.

**Terms and Conditions Applicable to Payward**

OOO. Payward will maintain:

(i) effective internal controls over systems that support the Platform including internal controls to ensure that its systems function properly and have adequate capacity and security;

(ii) effective information technology controls to support the Platform including controls relating to operations, information security, cyber resilience, change management, network support and system software support;

(iii) a business continuity plan, including emergency procedures, and a plan for disaster recovery that provides for the timely recovery of operations and fulfilment of its obligations with respect to the Platform including in the event of a wide-scale or major disruption; and

(iv) appropriate risk management policies and procedures and internal controls in place to minimize the risk that settlement will not take place as expected.

PPP. Payward will facilitate the allocation of sufficient financial and non-financial resources for the operations of the Filer to ensure the Filer can carry out its functions in a manner that is consistent with securities legislation and the Decision.

QQQ. Payward will notify the Principal Regulator immediately upon:

(i) becoming aware that it is or will be unable to allocate sufficient financial or other resources to the Filer as required under condition PPP; or

(ii) becoming aware that any of the marketplace provisions are or will not be complied with.

RRR. Payward will keep books, records and other documents reasonably necessary for the proper recording of its business and to demonstrate compliance with the conditions of this Decision, including: (i) records relating to the Filer and the Platform, (ii) records which could reasonably have an impact on Canadian investors or the Canadian capital markets, and (iii) records of all orders and trades made by the Filer on the Kraken Global Platform, including the product, quotes, executed price, volume, time when the order is entered, matched, cancelled or rejected, and the identifier of any authorized user that entered the order, in electronic form and for a minimum of seven years. Payward will promptly provide them in the format and at the time requested by the Principal Regulator.

SSS. Payward will ensure that all conditions provided herein are complied with. To the extent investor protection concerns arise in respect of the Filer or the Platform, Payward will, acting reasonably and in good faith, engage in discussions with the Principal Regulator or the Coordinated Review Decision Maker raising it to address the concern. Payward will, subject to applicable law, promptly provide to the Principal Regulator, on request, any and all data, information, and analyses in its custody or control related to the business and operations of:

(i) the Filer and the Platform; or

(ii) Payward and the Kraken Global Platform, which could reasonably have an impact on Canadian investors or the Canadian capital markets without limitations, redactions, restrictions, or conditions, in the format and at the time requested by the Principal Regulator, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

TTT. Except for the services provided by the Filer to any person or company resident in Canada, Payward acknowledges that neither Payward nor any of its affiliates is permitted to provide, or allow access to, any services governed by securities legislation, whether offered by Payward or any of its affiliates, to any person or company resident in an Applicable Jurisdiction, without the approval of the securities regulatory authority or regulator in such Applicable Jurisdiction.

UUU. The Filer will not be liable for the financial obligations of Payward or any other entity in the Payward Group.

VVV. Payward will perform trading services for the Filer only upon instructions from the Filer.

**Changes and Expiration of Decision**

WWW. The Filer will promptly make any changes to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator arising from the operation of the Platform.

XXX. The Filer will disclose to clients that the Filer is registered as a restricted dealer in the Applicable Jurisdictions subject to specific terms and conditions that are the subject of a specific order and as such may not be subject to all requirements otherwise applicable to an investment dealer and CIRO member, including those that apply to marketplaces and to trading on marketplaces.

YYY. The Filer will, if it intends to operate the Platform in Ontario and Québec after the expiry of the Decision, take the following steps:

(i) submit an application to the OSC and the Autorité des marchés financiers (**AMF**) to become registered as an investment dealer no later than 6 months after the date of the Decision;

(ii) submit an application with CIRO to become a dealer member no later than 6 months after the date of the Decision;

(iii) work actively and diligently with the OSC, AMF and CIRO to transition the Platform to investment dealer registration and obtain CIRO membership.

ZZZ. This Decision shall expire upon the date that is two years from the date of this Decision.

AAAA. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer in accordance with applicable securities legislation.

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

Application File #: 2023/0137

## Appendix A

## LOCAL TRADE REPORTING RULES

In this Decision,

a) the "**Local Trade Reporting Rules**" means each of the following:

(i) Part 3, Data Reporting of Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**OSC Rule 91-507**);

(ii) Part 3, Data Reporting of Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**MSC Rule 91-507**); and

(iii) Part 3, Data Reporting of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**).

## Appendix B

## SPECIFIED CRYPTO ASSETS

- Bitcoin
- Ether
- Litecoin
- Bitcoin cash
- A Value-Referenced Crypto Asset that complies with condition Z.

## Appendix C

## STAKING TERMS AND CONDITIONS

1. The Staking Services are offered in relation to the Stakeable Crypto Assets (as defined in condition 2) that are subject to a Crypto Contract between the Filer and a client.

2. Unless the Principal Regulator has provided its prior written consent, the Filer offers clients the Staking Services only for (i) Crypto Assets of blockchains that use a proof of stake consensus mechanism and (ii) the staked Crypto Assets that are used to guarantee the legitimacy of new transactions the Validator adds to the blockchain (**Stakeable Crypto Assets**).

3. The Filer is proficient and knowledgeable about staking Stakeable Crypto Assets.

4. The Filer itself does not act as a Validator. The Filer has entered into written agreements with its Staking Affiliates to stake Stakeable Crypto Assets and each such Staking Affiliate is proficient and experienced in staking Stakeable Crypto Assets.

5. The Filer's KYP Policy includes a review of the Stakeable Crypto Assets made available to clients for staking and staking protocols related to those Stakeable Crypto Assets prior to offering those Stakeable Crypto Assets as part of the Staking Services. The Filer's review includes the following:

    a) the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    b) the operation of the proof of stake blockchain for the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    c) the staking protocols for the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    d) the risks of loss of the staked Stakeable Crypto Assets, including from software bugs and hacks of the protocol;

    e) the Validators engaged by the Filer or the Filer's Acceptable Third-party Custodians, including, but not limited to, information about:

        (i) the persons or entities that manage and direct the operations of the Validator;

        (ii) the Validator's reputation and use by others;

        (iii) the amount of Stakeable Crypto Assets the Validator has staked on its own nodes;

        (iv) the measures in place by the Validator to operate the nodes securely and reliably;

        (v) the financial status of the Validator;

        (vi) the performance history of the Validator, including but not limited to the amount of downtime of the Validator, past history of double signing, and double attestation, or double voting;

        (vii) any losses of Stakeable Crypto Assets related to the Validator's actions or inactions, including losses resulting from slashing, jailing, or other penalties incurred by the Validator; and

        (viii) any guarantees offered by the Validator against losses including losses resulting from slashing or other penalties and any insurance obtained by the Validator that may cover this risk.

6. The Filer has policies and procedures to make a suitability determination for a client, except for permitted clients who have requested in writing that the Filer not make suitability determinations for their accounts, that includes consideration of the Staking Services to be made available to that client.

7. The Filer applies the suitability policies and procedures to evaluate whether offering the Staking Services is suitable for a client, except for permitted clients who have requested in writing that the Filer not make suitability determinations for their accounts, before providing access to an account that makes available the Staking Services and on an ongoing basis.

8. If, after making a suitability determination, the Filer determines that providing the Staking Services is not suitable for the client, the Filer will include prominent messaging to the client that this is the case and the Filer will not make available the Staking Services to the client.

9. The Filer only stakes the Stakeable Crypto Assets of those clients who have agreed to the Staking Services and have allocated Stakeable Crypto Assets to be staked. Where a client no longer wishes to stake all or a portion of the allocated Stakeable Crypto Assets, subject to any Lock-Up Periods or any terms of the Staking Services that permit the client to remove Stakeable Crypto Assets from the Staking Services prior to the expiry of any Lock-Up Periods, the Filer ceases to stake those Stakeable Crypto Assets.

10. Before the first time a client allocates any Stakeable Crypto Assets to be staked, the Filer delivers to the client the Risk Statement that includes the risks with respect to staking and the Staking Services described in paragraph 11 below, and requires the client to provide electronic acknowledgement of having received, read, and understood the Risk Statement.

11. The Filer clearly explains in the Risk Statement the risks with respect to staking and the Staking Services in plain language, which include, at a minimum:

    a) the details of the Staking Services and the role of all Staking Affiliates or other third parties involved;

    b) the due diligence performed by the Filer with respect to the proof of stake consensus protocol for each Crypto Asset for which the Filer provides the Staking Services;

    c) the details of the Validators that will be used for the Staking Services and the due diligence performed by the Filer with respect to the Validators;

    d) the details of whether and how the custody of staked Stakeable Crypto Assets differs from Crypto Assets held on behalf of the Filer's clients that are not engaged in staking;

    e) the general risks related to staking and any risks arising from the arrangements used by the Filer to offer the Staking Services (e.g., reliance on third parties, risk of loss due to technical errors or bugs in the protocol, hacks or theft from the crypto assets being held in hot wallets, etc.) and how any losses will be allocated to clients;

    f) whether the Filer will reimburse clients for any Stakeable Crypto Assets lost due to slashing or other penalties imposed due to Validator error, action, or inactivity, or how any losses will be allocated to clients;

    g) whether any of the staked Stakeable Crypto Assets are subject to any lock-up, unbonding, unstaking, or similar periods imposed by the Stakeable Crypto Asset protocol, Acceptable Third-party Custodian or Validator, where such Stakeable Crypto Assets will not be accessible to the client or will be accessible only after payment of additional fees or penalties or forfeiture of any rewards; and

    h) how rewards are calculated on the staked Stakeable Crypto Assets, including any fees charged by the Filer or any third party, how rewards are paid out to clients, and any associated risks.

12. Immediately before each time that a client allocates Stakeable Crypto Assets to be staked under the Staking Services, the Filer requires the client to acknowledge the risks of staking Stakeable Crypto Assets as may be applicable to the particular Staking Services or each particular Stakeable Crypto Asset, including, but not limited to:

    a) that the staked Stakeable Crypto Asset may be subject to a Lock-up Period and, consequently, the client may not be able to sell or withdraw their Stakeable Crypto Asset for a predetermined or unknown period of time, with details of any known period, if applicable;

    b) that given the volatility of Crypto Assets, the value of a client's staked Stakeable Crypto Asset when they are able to sell or withdraw, and the value of any Stakeable Crypto Asset earned through staking, may be significantly less than the current value;

    c) how rewards will be calculated and paid out to clients and any risks inherent in the calculation and payout of any rewards;

    d) that there is no guarantee that the client will receive any rewards on the staked Stakeable Crypto Asset, and that past rewards are not indicative of expected future rewards;

    e) whether rewards may be changed at the discretion of the Filer;

    f) unless the Filer guarantees any Stakeable Crypto Assets lost to slashing, that the client may lose all or a portion of the client's staked Stakeable Crypto Assets if the Validator does not perform as required by the network;

    g) if the Filer offers a guarantee to prevent loss of any Stakeable Crypto Assets arising from the Staking Services, including due to slashing, any limits on that guarantee and requirements for a client to claim under the guarantee; and

h) that additional risks can be found in the Risk Statement and Crypto Asset Statement, including the names and other information regarding the Validators and information regarding Lock-up Periods and rewards, with a link to the Risk Statement and Crypto Asset Statement.

13. Immediately before each time a client buys or deposits Stakeable Crypto Assets that are automatically staked pursuant to an existing agreement by the client to the Staking Services, the Filer provides prominent disclosure to the client that the Stakeable Crypto Asset it is about to buy or deposit will be automatically staked.

14. The Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Staking Services or Stakeable Crypto Assets.

15. In the event of any update to the Risk Statement, for each existing client that has agreed to the Staking Services, the Filer will promptly notify the client of the update and deliver to them a copy of the updated Risk Statement.

16. In the event of any update to a Crypto Asset Statement, for each existing client that has agreed to the Staking Services in respect of the Stakeable Crypto Asset for which the Crypto Asset Statement was updated, the Filer will promptly notify the client of the update and deliver to the client a copy of the updated Crypto Asset Statement.

17. The Filer and the Acceptable Third-party Custodians remain in possession, custody and control of the staked Stakeable Crypto Assets at all times.

18. The Filer holds the staked Stakeable Crypto Assets for its clients in one or more wallets in the name of the Filer for the benefit of the Filer's clients with the Acceptable Third-party Custodians, and the staked Stakeable Crypto Assets are held separate and distinct from (i) the assets of the Filer, the Acceptable Third-party Custodians and the Acceptable Third-party Custodians' other clients; and (ii) the Crypto Assets held for its clients that have not agreed to staking those specific Crypto Assets.

19. The Filer has established policies and procedures that manage and mitigate custodial risks for staked Stakeable Crypto Assets, including but not limited to, an effective system of controls and supervision to safeguard the staked Stakeable Crypto Assets.

20. In connection with the Flexible Staking Service in which the Filer permits clients to remove Stakeable Crypto Assets from the Staking Services prior to the expiry of any Lock-up Period, the Filer has established and applies appropriate liquidity management policies and procedures to fulfill withdrawal requests made, which include using its and its affiliates own Stakeable Crypto Assets that it holds in inventory or ceasing to allow clients to sell or withdraw prior to the expiry of any Lock-up Period. The Filer holds clients' Stakeable Crypto Assets in trust for its clients and will not use Stakeable Crypto Assets of those clients who have not agreed to the Staking Services for fulfilling such withdrawal requests.

21. If the Filer provides a guarantee to clients from some or all of the risks related to the Staking Services, the Filer has established, and will maintain and apply, policies and procedures to address any risks arising from such guarantee.

22. In the event of bankruptcy or insolvency of the Filer, the Filer will assume and will not pass to clients any losses arising from slashing or other penalties arising from the performance or non-performance of the Validator.

23. The Filer monitors its Validators for downtime, jailing, and slashing events and takes any appropriate action to protect Stakeable Crypto Assets staked by clients.

24. The Filer has established and applies policies and procedures to address how staking rewards, fees and losses will be calculated and allocated to clients that have staked Stakeable Crypto Assets under the Staking Services.

25. The Filer regularly and promptly determines the amount of staking rewards earned by each client that has staked Stakeable Crypto Assets under the Staking Services and distributes each client's staking rewards to the client promptly after they are made available to the Filer.

26. The Filer clearly discloses the fees charged by the Filer for the Staking Services and provides a clear calculation of the rewards earned by each client that agrees to the Staking Services.

## Appendix D

## Data Reporting

1. Commencing with the quarter ending June 30, 2023, the Filer will deliver the following information to the Principal Regulator and each of the Coordinated Review Decision Makers in an agreed form and manner specified by the Principal Regulator and each of the Coordinated Review Decision Makers with respect to clients residing in the Applicable Jurisdiction of such Coordinated Review Decision Maker, within 30 days of the end of each March, June, September and December:

    a) aggregate reporting of activity conducted pursuant to the Platform's operations that will include the following:

        (i) number of client accounts opened each month in the quarter;

        (ii) number of client accounts frozen or closed each month in the quarter;

        (iii) number of client accounts applications rejected by the Platform each month in the quarter as not being suitable;

        (iv) number of trades each month in the quarter;

        (v) average value of the trades in each month in the quarter;

        (vi) number of client accounts with a net acquisition cost greater than $30,000 of Crypto Assets at the end of each month in the quarter;

        (vii) number of client accounts that in the preceding 12 months, excluding Specified Crypto Assets, exceeded a net acquisition cost of $30,000 at the end of each month in the quarter;

        (viii) number of client accounts at the end of each month in the quarter;

        (ix) number of client accounts with no trades during the quarter;

        (x) number of client accounts that have not been funded at the end of each month in the quarter; and

        (xi) number of client accounts that hold a positive amount of Crypto Assets at end of each month in the quarter.

    b) the details of any client complaints received by the Filer during the calendar quarter and how such complaints were addressed;

    c) a listing of all blockchain addresses, except for deposit addresses, that hold Crypto Assets on behalf of clients, including all hot and cold wallets;

    d) the details of any fraudulent activity or cybersecurity incidents on the Platform during the calendar quarter, any resulting harms and effects on clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future; and

    e) the details of the transaction volume per Liquidity Provider, per Crypto Asset during the quarter.

2. The Filer will deliver to the Principal Regulator and each of the Coordinated Review Decision Makers, in an agreed form and manner specified by the Principal Regulator and each of the Coordinated Review Decision Makers, a report that includes the anonymized account-level data for the Platform's operations for each client residing in the Applicable Jurisdiction of such Coordinated Review Decision Maker, within 30 days of the end of each March, June, September and December for data elements outlined in Appendix E.

## Appendix E

### Data Element Definitions, Formats and Allowable Values

| Number | Data Element Name | Definition for Data Element[1] | Format | Values | Example |
|---|---|---|---|---|---|
| **Data Elements Related to each Unique Client** | | | | | |
| 1 | Unique Client Identifier | Alphanumeric code that uniquely identifies a client. | Varchar(72) | An internal client identifier code assigned by the CTP to the client. The identifier must be unique to the client. | ABC1234 |
| 2 | Unique Account Identifier | Alphanumeric code that uniquely identifies an account. | Varchar(72) | A unique internal identifier code which pertains to the client's account. There may be more than one Unique Account Identifier linked to a Unique Client Identifier. | ABC1234 |
| 3 | Jurisdiction | The Province or Territory where the client, head office or principal place of business is, or under which laws the client is organized, or if an individual, their principal place of residence. | Varchar(5) | Jurisdiction where the client is located using ISO 3166-2 - See the following link for more details on the ISO standard for Canadian jurisdictions codes. https://www.iso.org/obp/ui/#iso:code:3166:CA | CA-ON |
| **Data Elements Related to each Unique Account** | | | | | |
| 4 | Account Open Date | Date the account was opened and approved to trade. | YYYY-MM-DD, based on UTC. | Any valid date based on ISO 8601 date format. | 2022-10-27 |
| 5 | Cumulative Realized Gains/Losses | Cumulative Realized Gains/Losses from purchases, sales, deposits, withdrawals and transfers in and out, since the account was opened as of the end of the reporting period. | Num(25,0) | Any value rounded to the nearest dollar in CAD. Use the market value at the time of transfers in, transfers out, deposits and withdrawals of the Digital Token to determine the cost basis or the realized gain or loss. | 205333 |
| 6 | Unrealized Gains/Losses | Unrealized Gains/Losses from purchases, deposits and transfers in as of the end of the reporting period. | Num(25,0) | Any value rounded to the nearest dollar in CAD. Use the market value at the time of transfers in or deposits of the Digital Token to determine the cost basis. | -30944 |

[1] Note: Digital Token refers to either data associated with a Digital Token, or a Digital Token referenced in an investment contract.

| Number | Data Element Name | Definition for Data Element[1] | Format | Values | Example |
|---|---|---|---|---|---|
| 7 | Digital Token Identifier | Alphanumeric code that uniquely identifies the Digital Token held in the account. | Char(9) | Digital Token Identifier as defined by ISO 24165. See the following link for more details on the ISO standard for Digital Token Identifiers. https://dtif.org/ | 4H95J0R2X |
| **Data Elements Related to each Digital Token Identifier Held in each Account** | | | | | |
| 8 | Quantity Bought | Number of units of the Digital Token bought in the account during the reporting period. | Num(31,18) | Any value greater than or equal to zero up to a maximum number of 18 decimal places. | 4358.326 |
| 9 | Number of Buy Transactions | Number of transactions associated with the Quantity Bought during the reporting period. | Num(25,0) | Any value greater than or equal to zero. | 400 |
| 10 | Quantity Sold | Number of units of the Digital Token sold in the account during the reporting period. | Num(31,18) | Any value greater than or equal to zero up to a maximum number of 18 decimal places. | 125 |
| 11 | Number of Sell Transactions | Number of transactions associated with the Quantity Sold during the reporting period. | Num(25,0) | Any value greater than or equal to zero. | 3325 |
| 12 | Quantity Transferred In | Number of units of the Digital Token transferred into the account during the reporting period. | Num(31,18) | Any value greater than or equal to zero up to a maximum number of 18 decimal places. | 10.928606 |
| 13 | Number of Transactions from Transfers In | Number of transactions associated with the quantity transferred into the account during the reporting period. | Num(25,0) | Any value greater than or equal to zero. | 3 |
| 14 | Quantity Transferred Out | Number of units of the Digital Token transferred out of the account during the reporting period. | Num(31,18) | Any value greater than or equal to zero up to a maximum number of 18 decimal places. | 603 |
| 15 | Number of Transactions from Transfers Out | Number of transactions associated with the quantity transferred out of the account during the reporting period. | Num(25,0) | Any value greater than or equal to zero. | 45 |

| Number | Data Element Name | Definition for Data Element[1] | Format | Values | Example |
|---|---|---|---|---|---|
| 16 | Quantity Held | Number of units of the Digital Token held in the account as of the end of the reporting period. | Num(31,18) | Any value greater than or equal to zero up to a maximum number of 18 decimal places. | 3641.25461 |
| 17 | Value of Digital Token Held | Value of the Digital Token held as of the end of the reporting period. | Num(25,0) | Any value greater than or equal to zero rounded to the nearest dollar in CAD. Use the unit price of the Digital Token as of the last business day of the reporting period multiplied by the quantity held as reported in (16). | 45177788 |

## Appendix F

### Terms and Conditions for Trading Value-Referenced Crypto Assets with Clients

1) The Filer establishes that all of the following conditions are met:

   a) The Value-Referenced Crypto Asset references, on a one-for-one basis, the value of a single fiat currency (the "reference fiat currency").

   b) The reference fiat currency is the Canadian dollar or United States dollar.

   c) The Value-Referenced Crypto Asset entitles a Value-Referenced Crypto Asset holder who maintains an account with the issuer of the Value-Referenced Crypto Asset to a right of redemption, subject only to reasonable publicly disclosed conditions, on demand directly against the issuer of the Value-Referenced Crypto Asset or against the reserve of assets, for the reference fiat currency on a one-to-one basis, less only any fee that is publicly disclosed by the issuer of the Value-Referenced Crypto Asset, and payment of the redemption proceeds within a reasonable period as disclosed by the issuer of the Value-Referenced Crypto Asset.

   d) The issuer of the Value-Referenced Crypto Asset maintains a reserve of assets that is:

      (i) in the reference fiat currency and is comprised of any of the following:

         1. cash;

         2. investments that are evidence of indebtedness with a remaining term to maturity of 90 days or less and that are issued, or fully and unconditionally guaranteed as to principal and interest, by the government of Canada or the government of the United States;

         3. securities issued by one or more Money Market Funds licensed, regulated or authorized by a regulatory authority in Canada or the United States of America; or

         4. such other assets that the principal regulator of the Filer and the regulator or securities regulatory authority in each Canadian jurisdiction where clients of the Filer reside has consented to in writing;

   e) all of the assets that comprise the reserve of assets are:

      (i) measured at fair value in accordance with Canadian GAAP for publicly accountable enterprises or U.S. GAAP at the end of each day;

      (ii) held with a Qualified Custodian;

      (iii) held in an account clearly designated for the benefit of the Value-Referenced Crypto Asset holders or in trust for the Value-Referenced Crypto Asset holders;

      (iv) held separate and apart from the assets of the issuer of the Value-Referenced Crypto Asset and its affiliates and from the reserve of assets of any other Crypto Asset, so that, to the best of the knowledge and belief of the Filer after taking steps that a reasonable person would consider appropriate, including consultation with experts such as legal counsel, no creditors of the issuer other than the Value-Referenced Crypto Asset holders in their capacity as Value-Referenced Crypto Asset holders, will have recourse to the reserve of assets, in particular in the event of insolvency; and

      (v) not encumbered or pledged as collateral at any time; and

   f) the fair value of the reserve of assets is at least equal to the aggregate nominal value of all outstanding units of the Value-Referenced Crypto Asset at least once each day.

2) The issuer of the Value-Referenced Crypto Asset makes all of the following publicly available:

   a) details of each type, class or series of the Value-Referenced Crypto Asset, including the date the Value-Referenced Crypto Asset was launched and key features and risks of the Value-Referenced Crypto Asset;

   b) the quantity of all outstanding units of the Value-Referenced Crypto Asset and their aggregate nominal value at least once each business day;

c) the names and experience of the persons or companies involved in the issuance and management of the Value-Referenced Crypto Asset, including the issuer of the Value-Referenced Crypto Asset, any manager of the reserve of assets, including any individuals that make investment decisions in respect of the reserve of assets, and any custodian of the reserve of assets;

d) the quantity of units of the Value-Referenced Crypto Asset held by the issuer of the Value-Referenced Crypto Asset or any of the persons or companies referred to in paragraph (c) and their nominal value at least once each business day;

e) details of how a Value-Referenced Crypto Asset holder can redeem the Value-Referenced Crypto Asset, including any possible restrictions on redemptions such as the requirement for a Value-Referenced Crypto Asset holder to have an account with the issuer of the Value-Referenced Crypto Asset and any criteria to qualify to have an account;

f) details of the rights of a Value-Referenced Crypto Asset holder against the issuer of the Value-Referenced Crypto Asset and the reserve of assets, including in the event of insolvency or winding up;

g) all fees charged by the issuer of the Value-Referenced Crypto Asset for distributing, trading or redeeming the Value-Referenced Crypto Asset;

h) whether Value-Referenced Crypto Asset holders are entitled to any revenues generated by the reserve of assets;

i) details of any instances of any of the following:

(i) the issuer of the Value-Referenced Crypto Asset has suspended or halted redemptions for all Value-Referenced Crypto Asset holders;

(ii) the issuer of the Value-Referenced Crypto Asset has not been able to satisfy redemption rights at the price or in the time specified in its public policies;

j) within 45 days of the end of each month, an assurance report from a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America, and that meets the professional standards of that jurisdiction, that complies with all of the following:

(i) provides reasonable assurance in respect of the assertion by management of the issuer of the Value-Referenced Crypto Asset that the issuer of the Value-Referenced Crypto Asset has met the requirements in paragraphs (1)(d)-(f) as at the last business day of the preceding month and at least one randomly selected day during the preceding month;

(ii) the randomly selected day referred to in subparagraph (i) is selected by the public accountant and disclosed in the assurance report;

(iii) for each day referred to in subparagraph (i), management's assertion includes all of the following:

1. details of the composition of the reserve of assets;

2. the fair value of the reserve of assets in subparagraph (1)(e)(i);

3. the quantity of all outstanding units of the Value-Referenced Crypto Asset in paragraph (b);

(iv) the assurance report is prepared in accordance with the Handbook, International Standards on Assurance Engagements or attestation standards established by the American Institute of Certified Public Accountants;

k) starting with the first financial year ending after December 1, 2023, within 120 days of the issuer of the Value-Referenced Crypto Asset's financial year end, annual financial statements of the issuer of the Value-Referenced Crypto Asset that comply with all of the following:

(i) the annual financial statements include all of the following:

1. a statement of comprehensive income, a statement of changes in equity and a statement of cash flows, each prepared for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;

2. a statement of financial position, signed by at least one director of the issuer of the Value-Referenced Crypto Asset, as at the end of the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;

3. notes to the financial statements;

(ii) the statements are prepared in accordance with one of the following accounting principles:

1. Canadian GAAP applicable to publicly accountable enterprises;

2. U.S. GAAP;

(iii) the statements are audited in accordance with one of the following auditing standards:

1. Canadian GAAS;

2. International Standards on Auditing;

3. U.S. PCAOB GAAS;

(iv) the statements are accompanied by an auditor's report that,

1. if (iii)(1) or (2) applies, expresses an unmodified opinion,

2. if (iii)(3) applies, expresses an unqualified opinion,

3. identifies the auditing standards used to conduct the audit, and

4. is prepared and signed by a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America.

3) The Crypto Asset Statement includes all of the following:

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

b) a prominent statement that the Value-Referenced Crypto Asset is not the same as and is riskier than a deposit in a bank or holding cash with the Filer;

c) a prominent statement that although Value-Referenced Crypto Assets may be commonly referred to as "stablecoins", there is no guarantee that the Value-Referenced Crypto Asset will maintain a stable value when traded on secondary markets or that the reserve of assets will be adequate to satisfy all redemptions;

d) a prominent statement that, due to uncertainties in the application of bankruptcy and insolvency law, in the event of the insolvency of [Value-Referenced Crypto Asset issuer], there is a possibility that creditors of [Value-Referenced Crypto Asset issuer] would have rights to the reserve assets that could outrank a Value-Referenced Crypto Asset holder's rights, or otherwise interfere with a Value-Referenced Crypto Asset holder's ability to access the reserve of assets in the event of insolvency;

e) a description of the Value-Referenced Crypto Asset and its issuer;

f) a description of the due diligence performed by the Filer with respect to the Value-Referenced Crypto Asset;

g) a brief description of the information in section (2) and links to where the information in that section is publicly available;

h) a link to where on its website the issuer of the Value-Referenced Crypto Asset will disclose any event that has or is likely to have a significant effect on the value of the Value-Referenced Crypto Asset or on the reserve of assets.

i) a description of the circumstances where the secondary market trading value of the Value-Referenced Crypto Asset may deviate from par with the reference fiat currency and details of any instances where the secondary market trading value of the Value-Referenced Crypto Asset has materially deviated from par with the reference fiat currency during the last 12 months on the Filer's platform;

j) a brief description of any risks to the client resulting from the trading of a Value-Referenced Crypto Asset or a Crypto Contract in respect of a Value-Referenced Crypto Asset that may not have been distributed in compliance with securities laws;

k) any other risks specific to the Value-Referenced Crypto Asset, including the risks arising from the fact that the Filer may not, and a client does not, have a direct redemption right with the issuer of the Value-Referenced Crypto Asset;

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

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

n) the date on which the information was last updated.

4) If the Filer uses the term "stablecoin" or "stablecoins" in any information, communication, advertising or social media related to the Platform and targeted at or accessible by Canadian investors, the Filer will also include the following statement (or a link to the following statement when impractical to include):

> "Although the term "stablecoin" is commonly used, there is no guarantee that the asset will maintain a stable value in relation to the value of the reference asset when traded on secondary markets or that the reserve of assets, if there is one, will be adequate to satisfy all redemptions."

5) The issuer of the Value-Referenced Crypto Asset has filed an undertaking in substantially the same form as set out in Appendix B of CSA Notice 21-333 *Crypto Asset Trading Platforms: Terms and Conditions for Trading Value-Referenced Crypto Assets with Clients* (**CSA SN 21-333**) and the undertaking is posted on the CSA website.

6) To the extent the undertaking referred to in section (5) of this Appendix includes language that differs from sections (1) or (2) of this Appendix, the Filer complies with sections (1) and (2) of this Appendix as if they included the modified language from the undertaking.

7) The KYP Policy of the Filer requires the Filer to assess whether the Value-Referenced Crypto Asset or the issuer of the Value-Referenced Crypto Asset satisfies the criteria in sections (1), (2), (5) and (6) of this Appendix on an ongoing basis.

8) The Filer has policies and procedures to facilitate halting or suspending deposits or purchases of the Value-Referenced Crypto Asset, or Crypto Contracts in respect of the Value-Referenced Crypto Asset, as quickly as is commercially reasonable, if the Value-Referenced Crypto Asset no longer satisfies the criteria in sections (1), (2), (5) and (6) of this Appendix.

9) In this Appendix, terms have the meanings set out in Appendix D of CSA SN 21-333.

### B.3.8 APX Inc.

**Headnote**

OSC Innovation Office – National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for time-limited relief from registration and prospectus requirements – exemption sought to address investor protection concerns in retail context – relief for crypto-backed lending arrangements – Relief granted based on the particular facts and circumstances of the application with the objective of fostering innovative businesses in Canada – in Ontario, derivatives trade reporting rules do not apply due to tie-breaker logic in Ontario's derivatives product determination rule (section 4 – derivatives that are securities) – decision should not be viewed as precedent for other filers.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 25, 53 & 74.
Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.

**April 1, 2025**

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

**AND**

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

**AND**

**IN THE MATTER OF**
**APX INC.**
**(the Filer)**

**DECISION**

**Background**

The Filer wishes to operate a novel platform, which will allow individuals and businesses to apply online for loans (in Canadian dollars or U.S. dollars), with terms of three months to five years. Borrowers are required to provide Bitcoin and/or Ether as collateral for these loans. The loans will be made, and the collateral will be held by the Filer or by a wholly-owned subsidiary of the Filer established solely for making loans and holding collateral (each an **SPV**, collectively the **SPVs**). The collateral is held by the Filer, directly or through an SPV, for the duration of the loan and is not rehypothecated by the Filer and/or the SPVs. The Filer does not offer interest bearing accounts and does not accept deposits to fund the loans it makes.

As set out in Joint Canadian Securities Administrators/Investment Industry Regulatory Organization of Canada Staff Notice 21-329 *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements* (**Staff Notice 21-329**) and Canadian Securities Administrators Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* (**Staff Notice 21-327**), securities legislation applies to activities involving crypto assets where the

user's contractual right to the crypto asset may itself constitute a security and/or a derivative. The Canadian Securities Administrators (**CSA**) staff take the view that a lender who holds crypto assets as collateral under lending arrangements (**Crypto-backed Lending Arrangement**) may be engaged in activities to which securities legislation applies on the basis that a borrower's contractual rights relating to the crypto asset collateral and related rights under the borrower's agreement with the lender may be a "security".

The Ontario Securities Commission (the **OSC**), through its Office of Economic Growth and Innovation, engages with businesses that have innovative products, services or applications to support responsible capital markets innovation. OSC LaunchPad is a support program designed to help businesses navigate regulatory requirements and, where appropriate, work with businesses to develop flexible regulatory approaches to allow them to test their innovative business models.

To foster innovation and respond to novel circumstances, the CSA has considered granting time-limited relief from the dealer registration requirement and the prospectus requirement that would allow the Filer to operate with a regulated framework. The overall goal of the relief is to facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer wishes to operate the Platform (as defined below) and offer Crypto-backed Lending Arrangements, and is seeking relief from the dealer registration and prospectus requirements in each of the provinces and territories of Canada (the **Jurisdictions**). This decision (the **Decision**) has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Jurisdictions will not consider this Decision as constituting a precedent for other filers.

**Relief requested**

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

(a) the dealer registration requirement, and

(b) the prospectus requirements

in the Legislation that may otherwise be applicable to a trade in or a distribution of a Crypto-backed Lending Arrangement made by either:

(a) the Filer or an SPV to a Client (as defined below), or

(b) a Client to the Filer or an SPV,

shall not apply to the Filer, its SPVs, or its Clients, as the case may be (the **Requested Relief**), subject to the terms and conditions below.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

(b) the Filer has provided notice that, in the jurisdictions where required, subsection 4.7(1) of Multilateral Instrument 11-102 - *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**).

**Interpretation**

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

In this Decision, the following terms have the following meaning:

"**Acceptable Third-party Custodian**" means an entity that:

(a) is one of the following:

(i) a Canadian custodian or Canadian financial institution;

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

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

(iv) a foreign custodian for which the Filer has obtained the prior written consent from the Principal Regulator and the regulator or securities regulatory authority of the Jurisdictions; or an entity that does not meet the criteria for a qualified custodian and for which the Filer has obtained the prior written consent from the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s);

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

(c) has obtained audited financial statements within the last twelve months, which

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

(ii) are accompanied by an auditor's report that expresses an unqualified opinion, and

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

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

"**Act**" means the *Securities Act* (Ontario);

"**BTC**" means Bitcoin;

"**Canadian custodian**" has the meaning ascribed to that term in NI 31-103;

"**Canadian financial institution**" has the meaning ascribed to that term in National Instrument 45-106 *Prospectus Exemptions*;

"**Client(s)**" means persons and companies that borrow fiat from the Filer and deposit Collateral (as defined below) with the Filer or that borrow fiat through an SPV and deposit Collateral with the SPV;

"**Crypto Assets**" means assets commonly considered a crypto asset, digital or virtual currency, or digital or virtual tokens;

"**CTP**" means Crypto Asset trading platform;

"**ETH**" means Ether;

"**FINTRAC**" means the Financial Transactions and Reports Analysis Centre of Canada;

"**foreign custodian**" has the meaning ascribed to that term in NI 31-103;

"**interim period**' has the meaning ascribed to that term in NI 31-103;

"**loan to value ratio**" or "**LTV**" means the percentage of the loan amount in relation to the market value of the cryptocurrency used as collateral;

"**NI 31-103**" means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

"**qualified custodian**" has the meaning ascribed to that term in NI 31-103;

"**MSB**" means money services business; and

"**Registered CTP**" means a CTP that is registered as a restricted dealer or an investment dealer under securities legislation in Canada.

In this Decision, a person or company is an **affiliate** of another person or company if

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

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

**Representations**

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

*The Filer*

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

2. The Filer operates under the business name of **APX Lending**.

3. The Filer is registered as an MSB with FINTRAC and complies with the applicable requirements under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and its regulations (the **PCMLTF**). Each SPV will be registered in accordance with the requirements of the PCMLTF.

4. The Filer does not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside Canada and the Filer is not a reporting issuer in any jurisdiction.

5. The Filer's personnel consist of software engineers, compliance professionals and client support representatives who each have experience operating in a regulated environment such as an MSB and expertise in blockchain technology. The Filer has had all its employees pass criminal records checks and credit checks and new employees will have to pass criminal records and credit checks.

6. The Filer is not in default of securities and derivatives legislation in any jurisdiction of Canada. The Filer is in material compliance with securities and derivatives legislation of United States.

*The Filer's Platform and Services*

7. The Filer operates a proprietary and semi-automated internet-based Crypto Asset-backed lending platform (the **Platform**), enabling Clients to borrow from the Filer (directly or through an SPV) fiat currency, by depositing and pledging BTC or ETH or any other Crypto Asset agreed to by the Principal Regulator to and with the Filer (directly or through an SPV) as collateral for the loan (the **APX Services**).

8. The Filer does not currently intend to accept any Crypto Asset as collateral other than BTC and ETH (collectively, **Collateral**). Should the Filer decide to accept collateral other than BTC and ETH, it shall not do so without the prior approval of the Principal Regulator.

9. The rights and obligations of the Filer and of each Client involved in a Crypto-backed Lending Arrangement are set out in the loan agreement between the Filer (as lender) and the Client (as borrower) or, where the loan is made through an SPV, in the loan agreement between the SPV (as lender) and the Client (as borrower) (the **Loan Agreement**). The Loan Agreement is entered into as between the Client and the Filer or as between the Client and an SPV, as the case may be, after a Client opens an account on the Platform (each, an **APX Account**), and upon (a) the Client depositing Collateral with the Filer or SPV, as the case may be, and (b) the Filer approving the requested loan.

10. The Filer's activities, including the operation of the Platform and providing the APX Services (directly and through an SPV), may constitute the trading in securities and/or derivatives.

11. The Filer has appointed Rosenswig McRae Rosso LLP as its auditors.

12. The Filer will prepare: (a) audited consolidated financial statements no later than the 90th day after the end of its financial year, and (b) interim consolidated financial statements no later than the 30th day after the end of the first, second and third interim period of its financial year.

13. The Filer will not be a member firm of the Canadian Investor Protection Fund (**CIPF**) and the Collateral custodied with an Acceptable Third-party Custodian and with the Filer (or SPV, as the case may be) will not qualify for CIPF coverage. The Risk Statement (as defined below) will include disclosure that there will be no CIPF coverage for the Collateral.

14. The Filer will wholly own, control and manage each SPV. Other than the Filer and the SPVs, no affiliate of the Filer is engaged in activities related to Crypto Assets in Canada.

*KYP Obligations and Crypto Asset Restrictions*

15. The Filer intends to only allow for borrowing of fiat backed by BTC or ETH, and the Filer believes it has sufficient understanding of BTC and ETH to satisfy the know-your-product (**KYP**) provisions in NI 31-103 (**KYP Policy**).

16. The Filer is not engaged, and will not engage, in trades that are part of, or designed to facilitate, the creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset, its issuer or affiliates or associates of such persons.

17. The Filer monitors ongoing developments related to BTC and ETH that may cause BTC's or ETH's legal status as a security and/or derivative or the assessment conducted by the Filer pursuant to its KYP Policy and as described in its representations made hereinto change.

*Account Opening and Risk Disclosure*

18. Each Client, who is an individual, must be a resident of Canada, have reached the age of majority in the jurisdiction in which the person is resident, and have the legal capacity to open a securities brokerage account. Each Client of the Platform that is a corporation, partnership or other legal entity must be incorporated or registered under provincial, territorial or federal corporate legislation or under similar provincial, territorial or federal legislation applicable to other types of legal entities where required, and be in good standing. The Filer will not lend to Clients who are individuals and are not Canadian residents.

19. Clients of the Filer open an APX Account on the Platform and complete an onboarding process, including collection of the information necessary to make the assessment set out in representation 18 above and in representation 22 below, and the successful completion of "know-your-client" (**KYC**) procedures which satisfy relevant FINTRAC guidelines and PCMLTF requirements. The Filer has policies and procedures to ensure its Clients are not engaged in prohibited businesses or business practices.

20. In order to open an APX Account on the Platform, all Clients must agree to and comply with the Filer's terms and conditions (**Terms of Use**), which are publicly available on the Platform. In summary:

    (a) the Terms of Use constitute a service agreement whereby the Filer agrees to offer the APX Services to its Clients; and

    (b) in order to use the APX Services, each Client must open an APX Account.

21. Under the Loan Agreement, the Filer and each SPV maintains certain controls over APX Accounts to ensure compliance with applicable law and ensure secure custody of the Collateral.

22. The Filer does not provide recommendations or advice to Clients or conduct a suitability determination for Clients but performs account appropriateness assessments to determine whether it is appropriate for a Client to enter into a Crypto-backed Lending Arrangement with the Filer (whether directly or through an SPV). The account appropriateness assessment conducted by the Filer considers the following factors (the **Loan Account Appropriateness Factors**):

    (a) The Client's experience and knowledge of Crypto Assets;

    (b) the Client's financial circumstances;

    (c) the Client's personal circumstances;

    (d) the Client's risk profile; and

    (e) the Client's understanding of the risks involved in Crypto-backed Lending Arrangement.

23. The Loan Account Appropriateness Factors will be used by the Filer to evaluate whether entering into a Loan Agreement and pledging Collateral is appropriate for a prospective Client.

24. After completion of the loan account appropriateness assessment, a prospective Client will receive appropriate messaging about entering into a Loan Agreement, which, in circumstances where the Filer has evaluated that doing so is not appropriate for the Client, will include prominent messaging to the Client that this is the case and that the Client will not be permitted to enter into a Loan Agreement.

25. The Filer will also use the Loan Account Appropriateness Factors to determine the LTV to offer the Client.

26. The Filer maintains policies and procedures to monitor the value of the Collateral based on proprietary technology that marks-to-market the Collateral based on current market prices. Where a decrease in the value of the Collateral results in LTV rising above 80% or such other percentage as the Filer deems appropriate (the **Margin Notice Threshold**), the Filer will provide, by way of electronic notice, information on steps the Client may take, which include (i) returning a portion of the loan principal; or (ii) delivering to the Filer or SPV, as the case may be, additional Collateral to reduce LTV below the Margin Notice Threshold. Where the Client declines to effect either of the two forgoing actions, and should the value of the Collateral continue to decrease to the extent that LTV reaches 90% (or such other percentage as the Filer

deems appropriate) (**Collateral Liquidation Threshold**), the Filer or SPV, as the case may be, may sell up to the entirety of the Collateral to pay the loan amount in which case it shall provide the Client with notice of the same (**Collateral Liquidation**). The Margin Notice Threshold LTV and the Collateral Liquidation Threshold LTV will not change for a loan once it has been deployed.

27. As part of the account opening and loan application process,

    (a) the Filer will collect the KYC information from the prospective Client; and

    (b) the Filer will provide prospective Clients with a separate statement of risks (the **Risk Statement**) that clearly explains or includes the following in plain language:

        (i) the purpose of the Loan Agreement;

        (ii) the risks associated with the Collateral held by the Filer and the SPVs;

        (iii) prominently, a statement that no securities regulatory authority or regulator in Canada has assessed or endorsed the Loan Agreement;

        (iv) the location and the manner in which Collateral is held for the Client, the risks and benefits to the Client of the Collateral being held in that location and in that manner, including the impact of insolvency of the Filer, the SPVs or the Acceptable Third-party Custodian;

        (v) the manner in which the Collateral is accessible by the Filer, and the risks and benefits to the Client arising from the Filer having access to the Collateral in that manner;

        (vi) that the Filer is not a member of CIPF and the Collateral held by the Filer and the SPVs (directly or indirectly through third parties) will not qualify for CIPF protection;

        (vii) a statement that the statutory rights for damages and of rescission provided for in section 130.1 of the *Securities Act* (Ontario) and in the securities legislation of any of the other Jurisdictions do not apply in respect of the Risk Statement to the extent a security is distributed under the Prospectus Relief in this Decision;

        (viii) a statement that the Filer and the SPVs are not registered as a dealer in any jurisdiction in Canada; and

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

28. As part of the APX Account opening process as described in representation 27, the Filer will deliver the Risk Statement to the Client and obtain an electronic acknowledgment from the prospective Client confirming that the prospective Client has received, read and understood the Risk Statement. Such acknowledgment will be prominent and delivered concurrently with the opening of an APX Account and prior to execution of the Client's initial Loan Agreement.

29. A copy of the Risk Statement acknowledged by a Client will be electronically delivered to the Client and easily available to the Client upon request. The latest version of the Risk Statement will be continuously and easily available to Clients on the Filer's website and upon request.

30. The Filer has policies and procedures for updating the Risk Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Loan Agreements, APX Accounts and Crypto Assets. In such event, existing Clients of the Filer will be promptly notified and provided with a copy of the updated Risk Statement. In the event the Risk Statement is updated, existing Clients of the Filer will be promptly notified through an email notification, with links provided to the updated Risk Statement.

31. The Filer may also prepare and make available to its Clients, on an ongoing basis and in response to emerging issues in crypto assets, educational materials and other informational updates about Crypto-backed Lending Arrangements.

*Filer Operations*

32. The Filer and the SPVs do not have any authority to act on a discretionary basis on behalf of Clients and does not manage any discretionary accounts.

33. Loan applications are placed with the Filer through the Platform.

34. A Loan Agreement is a bilateral contract between the Client and the Filer or between the Client and the SPV. The Filer (or SPV, as the case may be) is the lender and the Client is the borrower.

35. Clients effecting interest or loan principal payments to the Filer or SPV, as the case may be, through the Platform can send funds via wire transfer, e-transfer, electronic funds transfer, direct deposit or other established and widely utilized payment methods.

36. Clients pledge their Collateral to unique wallet addresses designated to them either by the Filer or the Acceptable Third-party Custodian, who may be the custodian to the Filer, an SPV and the Client.

37. The Filer may effect the transfer of Collateral (i.e., a Collateral Liquidation) to the Filer (or SPV, as the case may be) only pursuant to the terms of the Loan Agreement (i.e. an event of default on the part of the Client such as a failure to repay loan when due, or a decrease in the value of the Collateral resulting in an LTV equal to or greater than the Collateral Liquidation Threshold stipulated in each Client's Loan Agreement).

38. The Filer evaluates and will continue to evaluate the fair market value of the Collateral for purposes of determining LTV on a near-continuous basis, in accordance with the terms of the Loan Agreement. The Filer's Clients can check the quoted price for BTC and ETH on the Platform against the prices available on other Registered CTPs in Canada.

39. The Filer and each SPV are not permitted to pledge, re-hypothecate or otherwise use the Collateral deposited by its Clients on the Platform, except as described in representation 37 above.

40. The Filer currently does not stake ETH, but the Filer is in discussions with the Principal Regulator with respect to staking Collateral ETH.

41. The Filer and each SPV record in their books and records the particulars of each loan, including the Collateral.

42. The Filer is compensated by interest charges on its loans and will not charge any fees, other than a liquidation processing fee, without first notifying the Principal Regulator. Any fees the Filer may charge clients will not change for any particular loan once the loan has been deployed. All fees will be clearly and prominently disclosed in the disclosure table contained in the Loan Agreement.

43. Clients are permitted to transfer Collateral into their APX Account with the Filer at any time for the purpose of decreasing LTV.

44. Clients are permitted to request a withdrawal of pledged Collateral in their APX Account with the Filer, and the Filer will permit such withdrawal where the withdrawal would not result in the LTV exceeding the LTV at the time of loan origination.

45. Clients are permitted to request an increase to their loan amount under the same terms as their original loan and the Filer may permit such increase where the increase in loan amount would not result in the LTV exceeding the LTV at the time of loan origination.

46. A loan can be repaid, either wholly or in part, by a Client and, where fully paid, may be closed at any time during the term of the loan. There will be no prepayment penalty applied to any loan. However, loans will provide that a borrower will be charged a minimum interest amount (e.g., a Loan Agreement may provide for a minimum of three months' interest).

47. Upon repayment of loan principal and accrued but unpaid interest and any fees in accordance with the terms of each Loan Agreement, the Filer will transfer all Collateral to the blockchain address specified by the applicable Client. The Filer has expertise in and has implemented appropriate anti-fraud and anti-money laundering monitoring systems, for both fiat and Crypto Assets to reduce the likelihood of fraud, money laundering, or error in sending or receiving Crypto Assets to incorrect wallet addresses.

48. The Filer maintains and will continue to maintain comprehensive business continuity and disaster recovery plans to ensure the resilience and uninterrupted operation of the Platform. These plans include measures to address potential disruptions to the Filer's critical systems, processes, and services, as well as protocols for recovery and restoration of operations within a reasonable time frame. The Filer regularly reviews and updates these plans to address evolving risks and industry standards and ensures that appropriate testing is conducted to validate their effectiveness.

*Reports to Clients*

49. On a continuous basis, except during rare moments where the Platform is not available to allow for systems maintenance, Clients will be able to access 24/7 the outstanding loan principal and interest, the current fair market value of pledged Collateral and the cumulative amounts of interest and principal payments made to date with respect to any loan transaction.

50. On a continuous basis, except during rare moments where the Platform is not available to allow for systems maintenance, Clients will have access to a complete record of all historic lending activities and details since creating an APX Account.

*Custody of Crypto Assets*

51. The Filer utilizes Fireblocks Ltd. for hot transactional wallets (**Hot Wallet Provider**) and has retained BitGo Trust Company, Inc. (**Custodian**) as a custodian to hold (in cold storage) Client Collateral. Such Custodian meets all the requirements of an Acceptable Third-party Custodian. The Filer may use other custodians in the future, provided they also meet the requirements of an Acceptable Third-party Custodian.

52. The Filer and each SPV will hold custody accounts with the Custodian for the purpose of safely custodying Clients' Collateral. The Collateral that the Custodian holds in trust for the Clients of the Filer are held in designated and segregated accounts in trust in the name of the Filer (or SPV, as the case may be) for the benefit of the Filer's Clients and are held separate and apart from the assets of the Filer, the SPV and its Custodian, and the assets of other clients of the Custodian.

53. Client Collateral held in trust for their benefit in hot wallets and with Custodians are deemed to be the Clients' Crypto Assets in case of the insolvency and/or bankruptcy of the Filer, of an SPV or of the Custodian.

54. The Custodian has established policies and procedures that manage and mitigate the risks of holding the Collateral, including, but not limited to, an effective system of controls and supervision to safeguard the Collateral for which they act as custodian and to mitigate security breaches and cyber incidents. The Filer has and will conduct due diligence on the Custodian, including a thorough review of the Custodian's policies and procedures.

55. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to ensure the Custodian's records related to Collateral that the Custodian holds in trust for Clients of the Filer (whether directly or through an SPV) are accurate and complete.

56. For Crypto Assets held by the Filer and by the SPVs, whether directly in hot wallets or indirectly through the Custodian, the Filer:

    (a) holds Collateral or ensures that the Collateral are held in trust for its Clients, and separate and distinct from the assets of the Filer and the SPV; and

    (b) has established and applies written policies and procedures that manage and mitigate the custodial risk, including, but not limited to, an effective system of controls and supervision to safeguard the Collateral for which it acts as custodian and to mitigate security breaches and cyber incidents.

57. In an effort to spread counterparty risk, the Filer may engage other custodians and hot wallet providers to hold Collateral from time to time. In respect of cold storage of Collateral, the Filer intends to engage only with custodians that meet the definition and requirements of an Acceptable Third-party Custodian. Prior to depositing Collateral with any such custodian, the Filer performs reasonable due diligence on the custodian, including a review of the custodian's balance sheet and management team, including holding meetings with the custodian's representatives. The Filer will inquire as to security protocols as well as withdrawal protocols and the insurance coverage applicable to the Crypto Assets held. Prior to engaging a new custodian or hot wallet provider, the Filer will obtain from such custodian a SOC 2 Type 1 or Type 2 report within the last 12 months. Lastly, the Filer will provide the Principal Regulator with at least 30 days' prior written notice of its intention to add or remove any custodian or hot wallet provider.

*Marketplace and Clearing Agency*

58. The Filer will not operate a "marketplace" as defined in National Instrument 21-101 *Marketplace Operation* and, in Ontario, subsection 1(1) of the Act because it will not:

    (a) perform the activities commonly understood to be acting as an exchange or quotation and trading reporting system,

    (b) execute trades of exchange-traded securities outside of a marketplace, or

    (c) constitute, maintain or provide a market or facility for bringing together buyers and sellers of securities (or Crypto Assets generally, for that matter), bring together the orders for securities (or crypto assets generally) of multiple buyers and sellers, and use established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade.

59. The Filer will not operate a "clearing agency" as defined in the securities legislation in any of the Applicable Jurisdictions.

*Market Participant*

60. The Filer is a "market participant" as defined under subsection 1(1) of the Act. As a market participant, among other requirements, the Filer is required to comply with the record keeping and provision of information provisions under section

19 of the Act, which include the requirement to keep such books, records and other documents as are necessary for the proper recording of business transactions and financial affairs, and the transactions executed on behalf of others, and to deliver such records to the Principal Regulator, if required.

*Finances*

61. By virtue of holding Collateral in accordance with applicable LTV ratios and effecting liquidations at or above applicable Collateral Liquidation Thresholds, the Filer will maintain sufficient resources to guarantee its obligations under Crypto-backed Lending Arrangements (whether made directly or through an SPV).

*Lending Regulation*

62. Neither the Filer nor, where applicable, the SPV shall commence or conduct lending activities in any province of Canada where such activities require licensing, registration or similar regulatory approvals or notifications from or to a provincial regulatory body, until such time as the Filer or the SPV, or both, as required, has obtained such licensing, registration, approvals or notifications, and the Filer and each SPV is otherwise in compliance with laws applicable to such activities in such province.

*Personal Property Security Act*

63. In connection with the Crypto-backed Lending Arrangements, the Filer has considered the availability of the prospectus exemption at section 2.37 of National Instrument 45-106 *Prospectus Exemptions* and determined that, at the time of this Decision, the exemption may not be available due to the attributes of the Collateral and the nature of the Filer's business.

**Decision**

The Principal Regulator is satisfied that the decision with respect to the Passport Relief meets the test set out in the Legislation for the Principal Regulator to make the decision.

The decision of the Principal Regulator under the Legislation is that the Requested Relief is granted, provided that:

*Acting fairly, honestly and in good faith*

A. The Filer will act and will take reasonable steps to cause each individual acting on its behalf to act, fairly, honestly and in good faith with Clients.

*Conflicts of interest*

B. The Filer will comply, and will take reasonable steps to cause each individual acting on their behalf to act to comply, with the enhanced conflicts of interest provisions in section 13.4 and 13.4.1 of NI 31-103 as if the Filer were a "registered firm" and individuals acting on behalf of the Filer were "registered individuals".

*KYC and Loan Account Appropriateness*

C. The Filer will take reasonable steps to keep current the information obtained pursuant to representation 19.

D. For each Client, the Filer will perform a loan account appropriateness assessment as set out in representation 22 prior to opening a loan account and on an ongoing basis at least annually.

*Handling complaints*

E. The Filer will document, and, in a manner that a reasonable person would consider fair and effective, promptly respond to each complaint made to the Filer about the APX Services offered by the Filer or an individual acting on behalf of the Filer.

*Permitted referral arrangements*

F. The Filer may advertise its services with CTPs provided such referral activities with CTPs are limited to fixed fee advertising only.

G. The Filer will not enter into any agreement with a CTP that results in the CTP effecting a leverage or lending transaction in contravention of CTP's restrictions on offering margin or leverage services in Canada.

*No recommendations or advice*

H. The Filer, and any individual acting on its behalf, will not provide recommendations or advice to any Client or prospective client.

*Operations*

I. The Filer will only provide APX Services in relation to Crypto Assets and will provide the APX Services directly or through an SPV. Other than the APX Services, the Filer will not offer derivatives based on the Crypto Assets to Clients. The Filer will seek the appropriate approvals from the Principal Regulator and, if required under the securities legislation, the regulator or securities regulatory authority of any other Jurisdiction, prior to undertaking any other activity governed by securities legislation in Canada.

J. The Filer will wholly own, control and manage each SPV that enters into a Loan Agreement with Clients and holds (through an Acceptable Third-party Custodian) the Collateral.

K. The Filer will ensure that each SPV only (i) enters into financing agreements with institutional investors, (ii) enters into Loan Agreements with Clients, and (iii) holds the Collateral, and engages in no other activities.

L. The Filer will not operate a "marketplace" as the term is defined in National Instrument 21-101 *Marketplace Operations* and, in Ontario, in subsection 1(1) of the Act or a "clearing agency" as the term is defined in the securities legislation in any of the Jurisdictions.

M. The Filer will only accept BTC and ETH as Collateral, unless it obtains the prior written consent of the Principal Regulator.

N. Neither the Filer nor any SPV will commence or conduct lending activities in any province of Canada where such activities require licensing, registration or similar regulatory approvals or notifications from or to a provincial regulatory body, until such time as the Filer or the SPV, or both, as applicable, has obtained such licensing, registration, approvals or notifications, and the Filer and each SPV is otherwise in compliance with laws applicable to such activities in such province.

*Custody*

O. At all times, the Filer and its SPVs will hold at least 95% of the total value of Clients' Collateral with a custodian that meets the definition of an "Acceptable Third-party Custodian" for all loans where the LTV is below the Margin Notice Threshold.

P. The Filer and SPV may, upon a loan's LTV being above the Margin Notice Threshold and no additional Collateral being added by the Client or a portion of the loan being paid back by the Client, transfer to and hold the Collateral in its hot wallets or in its accounts with a Registered CTP in preparation for liquidation.

Q. Before the Filer and SPVs hold Clients' Collateral with a custodian referred to in condition O, the Filer will take reasonable steps to verify that the custodian

(a) has established and applies written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Collateral for which it acts as custodian;

(b) will hold the Collateral for its Clients (i) separate and apart from the assets of non-Canadian clients, and (ii) separate and apart from its own assets, from the assets of an SPV, and from the assets of any custodial service provider;

(c) has appropriate insurance to cover the loss of Collateral held at the custodian;

(d) meets each of the requirements to be an Acceptable Third-party Custodian, except for those criteria in respect of which the custodian does not meet and the Principal Regulator and the regulator or securities regulatory authority of the other Jurisdictions have provided prior written approval for use of the custodian.

R. The Filer will provide the Principal Regulator with at least 30 days' prior written notice of any:

(e) changes of or use of a custodian or hot wallet provider; and

(f) material changes to the Filer's ownership, business operations, including its systems, or its business model.

S. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of a custodian's system of controls or supervision, and what steps have been taken by the Filer or its custodian, as the case may be, to address each such breach or failure. The loss of any amount of a Crypto Assets will be considered a material breach or failure.

T. The Filer will promptly notify the Principal Regulator if the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, the South Dakota Division of Banking or the New York State Department of Financial Services or any other regulatory authority applicable to a custodian of the Filer or of an SPV, makes a determination that (i) a custodian is not permitted by that regulatory authority to hold client Crypto Assets, or (ii) if there is a change in the status of the custodian as a regulated financial institution. In such a case, the Filer will identify a suitable alternative custody provider that meets the definition of an Acceptable Third-party Custodian to hold the Collateral.

U. For Collateral held by the Filer and SPVs, the Filer and the SPVs, as applicable:

(a) will hold the Collateral in trust for the benefit of its Clients, and separate and distinct from the assets of the Filer and the SPVs;

(b) will ensure there is appropriate insurance to cover the loss of Collateral held by the Filer and SPVs;

(c) will have established and apply written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Collateral for which it acts as custodian.

*Risk Disclosure*

V. As part of the loan application process, the Filer will deliver to the Client a Risk Statement and will require the Client to provide electronic acknowledgment of having received, read and understood the Risk Statement.

W. The Risk Statement delivered in condition V and to Clients will be prominent and separate from other disclosures given to the Client at the time the Risk Statement is delivered, and the acknowledgement will be separate from other acknowledgements by the Client at that time.

X. A copy of the Risk Statement acknowledged by a Client will be electronically delivered to the Client and easily available to the Client upon request. The latest version of the Risk Statement will be continuously and easily available to Clients on the Platform and upon request.

Y. The Filer will promptly update the Risk Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Loan Agreement, the Terms of Use or the Crypto Assets and in such event, it will promptly notify each existing Client, through an email notification of the update and deliver to them a copy and a link to the updated Risk Statement, and in such event, existing Clients of the Filer will be promptly notified, through an email notification, of the update and deliver to them a link to the updated Risk Statement.

Z. Prior to the Filer making an updated Risk Statement available to Clients, the Filer will deliver, or will have previously delivered, a copy of the Risk Statement and a blackline of the changes to the Principal Regulator.

*Finances*

AA. The Filer will maintain sufficient financial resources for the operations of the Platform, the SPVs and the Crypto-backed Lending Arrangements and in furtherance of its compliance with this Decision

BB. The Filer has and will continue to confirm that it is not and each of the SPVs is not liable for the debt of an affiliate that could have a material negative effect on the Filer and SPVs.

*Reporting*

CC. The Filer will notify the Principal Regulator immediately upon becoming aware that the Filer does not or may not have sufficient financial resources in accordance with the requirements of condition AA.

DD. The Filer will provide: (a) audited consolidated financial statements no later than the 90th day after the end of its financial year, and (b) interim consolidated financial statements no later than the 30th day after the end of the first, second and third interim period of its financial year, to the Principal Regulator.

EE. The Filer will deliver the reporting as set out in Appendix A.

FF. In addition to any other reporting required by the Legislation, the Filer will provide, on a timely basis, any report, data, document or information to the Principal Regulator, including any information about the SPVs and about the Filer's

custodians and the Crypto Assets held by the custodians, that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with the Legislation and the conditions in the Decision, in a format acceptable to the Principal Regulator.

GG. Upon request, the Filer will provide the Principal Regulator with aggregated and/or anonymized data concerning Client demographics and activity on the Platform that may be useful to advance the development of a Canadian regulatory framework for Crypto Asset-backed Lending Arrangements.

HH. The Filer will provide the Principal Regulator at least 30 days' written notice to the Principal Regulator if an affiliate of the Filer proposes to offer products or services related to Crypto Assets in Canada or to Canadian residents.

II. The Filer will promptly make any changes to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator arising from the operation of the Platform.

*Other*

JJ. In jurisdictions where the Prospectus Relief is required, the first trade of a Crypto-backed Lending Arrangement is deemed to be a distribution under the securities legislation in any of the Jurisdictions.

KK. The Filer remains in compliance with requirements of the PCMLTF and FINTRAC or any comparable legislation that applies to the Filer.

*Term of relief*

LL. This Decision will expire three years from the date of this Decision.

MM. The Decision may be amended by the Principal Regulator from time to time upon prior written notice to the Filer.

In respect of the Requested Relief:

Date: April 1, 2025

"Benjamin Matthews"
Vice President, Office of Economic Growth and Innovation
Ontario Securities Commission

OSC File #: 2024/0590

## APPENDIX A -- REPORTING

Commencing with the quarter ending June 30, 2025, the Filer will deliver the following information to the Principal Regulator in a form and manner specified by the Principal Regulator, with respect to Clients residing in each Jurisdiction, within 30 days of the end of each March, June, September and December:

(a) aggregate reporting of activity conducted pursuant to the Platform's operations that will include the following:

  (i) number of APX Accounts opened each month in the quarter;

  (ii) number of APX Accounts closed each month in the quarter;

  (iii) number of APX Account applications rejected by the Platform each month in the quarter based on the Loan Account Appropriateness Factors;

  (iv) number of loans made each month in the quarter;

  (v) average value of the loans in each month in the quarter;

  (vi) number of loans where the borrowers failed to make the required interest payment for the month;

  (vii) number of loans that exceeded the Margin Notice Threshold in each month in the quarter;

  (viii) average value of loans that exceeded the Margin Notice Threshold in each month in the quarter;

  (ix) number of loans that exceeded the Collateral Liquidation Threshold in each month in the quarter;

  (x) average value of loans that exceeded the Collateral Liquidation Threshold in each month in the quarter;

  (xi) number of Collateral Liquidations in the month;

  (xii) average value of loans that the Filer effected Collateral Liquidations;

  (xiii) number of APX Accounts at the end of each month in the quarter; and

  (xiv) number of APX Accounts with no loans during the quarter,

(b) the details of any Client complaints received by the Filer during the calendar quarter and how such complaints were addressed;

(c) a listing of all blockchain addresses, except for deposit addresses, that hold Crypto Assets on behalf of clients, including all hot and cold wallets;

(d) the details of any fraudulent activity or cybersecurity incidents on the Platform during the calendar quarter, any resulting harms and effects on Clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future; and

(e) the details of the Client loan default, by number of Clients and aggregates loan default amounts, during the quarter.

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# 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 |
|---|---|---|
| **THERE IS NOTHING TO REPORT THIS WEEK.** | | |

### 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 | |
| Xcyte Digital Corp. | February 4, 2025 | |

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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:**
Oak Hill AQR Delphi Long-Short Equity Fund
Principal Regulator – Ontario
**Type and Date**
Preliminary Simplified Prospectus dated Mar 28, 2025
NP 11-202 Preliminary Receipt dated Mar 28, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06260041

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**Issuer Name:**
Brompton Wellington Square AAA CLO ETF
Principal Regulator – Ontario
**Type and Date:**
Preliminary Long Form Prospectus dated Mar 28, 2025
NP 11-202 Preliminary Receipt dated Mar 31, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06261796

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**Issuer Name:**
Outcome Tactical Bond Fund
Principal Regulator – Ontario
**Type and Date**
Combined Preliminary and Pro Forma Simplified Prospectus dated Mar 27, 2025
NP 11-202 Preliminary Receipt dated Mar 28, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06259940

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**Issuer Name:**
Mackenzie Global Sustainable Dividend Index ETF
Mackenzie US Large Cap Equity Index ETF
Principal Regulator – Ontario
**Type and Date:**
Amendment No. 2 to Final Long Form Prospectus dated Mar 24, 2025
NP 11-202 Final Receipt dated Mar 28, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06141776

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**Issuer Name:**
Invesco RAFI Canadian Index ETF
Invesco RAFI Global Small-Mid ETF
Invesco RAFI U.S. Index ETF
Invesco RAFI U.S. Index ETF II
Principal Regulator – Ontario
**Type and Date:**
Amendment No. 1 to Final Long Form Prospectus dated Mar 24, 2025
NP 11-202 Final Receipt dated Mar 27, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06219144

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**Issuer Name:**
Invesco RAFI Canadian Index ETF Class
Principal Regulator – Ontario
**Type and Date:**
Amendment No. 4 to Final Simplified Prospectus dated Mar 24, 2025
NP 11-202 Final Receipt dated Mar 25, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06143587

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**Issuer Name:**
3iQ Bitcoin ETF
3iQ Ether Staking ETF
Principal Regulator – Ontario
**Type and Date:**
Final Long Form Prospectus dated Mar 26, 2025
NP 11-202 Final Receipt dated Mar 26, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06246527

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**Issuer Name:**
NEI Balanced Private Portfolio
NEI Balanced Yield Portfolio (formerly NEI Global Strategic Yield Fund)
NEI Canadian Bond Fund
NEI Canadian Dividend Fund (formerly NEI Northwest Canadian Dividend Fund)
NEI Canadian Equity Fund (formerly NEI Northwest Canadian Equity Fund)
NEI Canadian Equity Pool
NEI Canadian Equity RS Fund (formerly NEI Ethical Canadian Equity Fund)
NEI Canadian Impact Bond Fund
NEI Canadian Small Cap Equity Fund (formerly NEI Northwest Specialty Equity Fund)
NEI Canadian Small Cap Equity RS Fund (formerly NEI Ethical Special Equity Fund)
NEI Clean Infrastructure Fund
NEI Conservative Yield Portfolio
NEI Emerging Markets Fund (formerly NEI Northwest Emerging Markets Fund)
NEI Environmental Leaders Fund
NEI ESG Canadian Enhanced Index Fund (formerly NEI Jantzi Social Index® Fund)
NEI Fixed Income Pool
NEI Global Corporate Leaders Fund
NEI Global Dividend RS Fund (formerly NEI Ethical Global Dividend Fund)
NEI Global Equity Pool
NEI Global Equity RS Fund (formerly NEI Ethical Global Equity Fund)
NEI Global Growth Fund (formerly NEI Global Equity Fund)
NEI Global High Yield Bond Fund (formerly NEI Northwest Specialty Global High Yield Bond Fund)
NEI Global Impact Bond Fund
NEI Global Sustainable Balanced Fund (formerly NEI Balanced RS Fund)
NEI Global Total Return Bond Fund
NEI Global Value Fund
NEI Growth & Income Fund (formerly NEI Northwest Growth and Income Fund)
NEI Growth Private Portfolio
NEI Impact Balanced Portfolio
NEI Impact Conservative Portfolio
NEI Impact Growth Portfolio
NEI Income & Growth Private Portfolio
NEI Income Private Portfolio
NEI International Equity RS Fund (formerly NEI Ethical International Equity Fund)
NEI Long Short Equity Fund
NEI Managed Asset Allocation Pool
NEI Money Market Fund
NEI Select Balanced RS Portfolio (formerly NEI Ethical Select Balanced Portfolio)
NEI Select Growth & Income RS Portfolio (formerly Meritas Growth & Income Portfolio)
NEI Select Growth RS Portfolio (formerly NEI Ethical Select Growth Portfolio)
NEI Select Income & Growth RS Portfolio (formerly NEI Ethical Select Conservative Portfolio)
NEI Select Income RS Portfolio (formerly NEI Ethical Select Income Portfolio)

NEI Select Maximum Growth RS Portfolio (formerly Meritas Maximum Growth Portfolio)
NEI U.S. Equity RS Fund (formerly NEI Ethical U.S. Equity Fund)
Principal Regulator – Ontario
**Type and Date:**
Final Simplified Prospectus dated Mar 27, 2025
NP 11-202 Final Receipt dated Mar 27, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06245912

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**Issuer Name:**
Portland 15 of 15 Alternative Fund
Portland Life Sciences Alternative Fund
Portland Replacement of Fossil Fuels Alternative Fund
Principal Regulator – Ontario
**Type and Date:**
Final Simplified Prospectus dated Mar 27, 2025
NP 11-202 Final Receipt dated Mar 28, 2025
**Offering Price and Description:**
**-**
**Underwriter(s) or Distributor(s):**
**-**
**Promoter(s):**
**-**
**Filing** #06239938

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**Issuer Name:**
JFT Strategies Fund
Principal Regulator – Ontario
**Type and Date:**
Final Shelf Prospectus (NI 44-102) dated Mar 31, 2025
NP 11-202 Final Receipt dated Mar 31, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06255170

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**Issuer Name:**
Brompton Canadian Cash Flow Kings ETF
Brompton Enhanced Multi-Asset Income ETF
Brompton European Dividend Growth ETF
Brompton Flaherty & Crumrine Enhanced Investment Grade Preferred ETF
Brompton Flaherty & Crumrine Investment Grade Preferred ETF
Brompton Global Dividend Growth ETF
Brompton Global Healthcare Income & Growth ETF
Brompton Global Infrastructure ETF
Brompton International Cash Flow Kings ETF
Brompton North American Financials Dividend ETF
Brompton North American Low Volatility Dividend ETF
Brompton Split Corp. Preferred Share ETF
Brompton Tech Leaders Income ETF
Brompton U.S. Cash Flow Kings ETF
Principal Regulator – Ontario
**Type and Date:**
Final Long Form Prospectus dated Mar 27, 2025
NP 11-202 Final Receipt dated Mar 28, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06244268

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**Issuer Name:**
Portland Canadian Balanced Fund
Principal Regulator – Ontario
**Type and Date:**
Final Simplified Prospectus dated Mar 28, 2025
NP 11-202 Final Receipt dated Mar 28, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06239918

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**Issuer Name:**
TD Emerald Balanced Fund
TD Emerald Canadian Bond Index Fund
TD Emerald Canadian Equity Index Fund
TD Emerald Canadian Short Term Investment Fund
TD Emerald Canadian Treasury Management - Government of Canada Fund
TD Emerald Canadian Treasury Management Fund
TD Emerald International Equity Index Fund
TD Emerald U.S. Market Index Fund
Principal Regulator – Ontario
**Type and Date:**
Final Simplified Prospectus dated Mar 28, 2025
NP 11-202 Final Receipt dated Mar 28, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06239657

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**Issuer Name:**
ATBIS Canadian Equity Pool
ATBIS Fixed Income Pool
ATBIS International Equity Pool
ATBIS U.S. Equity Pool
Compass Balanced Growth Portfolio
Compass Balanced Portfolio
Compass Conservative Balanced Portfolio
Compass Conservative Portfolio
Compass Growth Portfolio
Compass Maximum Growth Portfolio
Principal Regulator – Alberta
**Type and Date:**
Final Simplified Prospectus dated Mar 26, 2025
NP 11-202 Final Receipt dated Mar 26, 2025
**Offering Price and Description:**
-
**Underwriter(s) or Distributor(s):**
-
**Promoter(s):**
-
**Filing** #06240797

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## NON-INVESTMENT FUNDS

**Issuer Name:**
TriSummit Utilities Inc.
**Principal Regulator** – Alberta
**Type and Date:**
Preliminary Shelf Prospectus dated March 28, 2025
NP 11-202 Preliminary Receipt dated March 28, 2025
**Offering Price and Description:**
$1,000,000,000 - Preferred Shares, Debt Securities
**Filing #** 06260751

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**Issuer Name:**
Discovery Silver Corp.
**Principal Regulator** – Ontario
**Type and Date:**
Preliminary Shelf Prospectus dated March 28, 2025
NP 11-202 Preliminary Receipt dated March 28, 2025
**Offering Price and Description:**
C$500,000,000 - Common Shares, Warrants, Subscription Receipts, Units
**Filing #** 06260838

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**Issuer Name:**
Silver Tiger Metals Inc.
**Principal Regulator** – Nova Scotia
**Type and Date:**
Preliminary Short Form Prospectus dated March 28, 2025
NP 11-202 Preliminary Receipt dated March 28, 2025
**Offering Price and Description:**
$15,000,150
45,455,000 Common Shares
Price: $0.33 per Offered Share
**Filing #** 06257370

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**Issuer Name:**
Perimeter Medical Imaging AI, Inc.
**Principal Regulator** – Ontario
**Type and Date:**
Preliminary Short Form Prospectus dated March 26, 2025
NP 11-202 Preliminary Receipt dated March 27, 2025
**Offering Price and Description:**
Minimum: $[*] ([*] Units)
Maximum: $[*] ([*] Units)
Price: $[*] per Unit
**Filing #** 06258809

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**Issuer Name:**
BRP Inc.
**Principal Regulator** – Québec
**Type and Date:**
Final Shelf Prospectus dated March 26, 2025
NP 11-202 Final Receipt dated March 27, 2025
**Offering Price and Description:**
Subordinate Voting Shares, Preferred Shares, Debt Securities, Warrants, Subscription Receipts, Units
**Filing #** 06258789

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**Issuer Name:**
GoGold Resources Inc.
**Principal Regulator** – Nova Scotia
**Type and Date:**
Preliminary Short Form Prospectus dated March 25, 2025
NP 11-202 Preliminary Receipt dated March 26, 2025
**Offering Price and Description:**
C$75,002,200
41,210,000 Common Shares
Price: C$1.82 per Offered Share
**Filing #** 06254867

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**Issuer Name:**
Rush Gold Corp.
**Principal Regulator** – British Columbia
**Type and Date:**
Preliminary Long Form Prospectus dated March 20, 2025
NP 11-202 Preliminary Receipt dated March 24, 2025
**Offering Price and Description:**
3,500,000 Common Shares for $350,000 (the “Minimum Offering”)
5,000,000 Common Shares for $500,000 (the “Maximum Offering”)
Price: $0.10 per Common Share
**Filing #** 06256265

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**Issuer Name:**
Avventura Resources Ltd.
**Principal Regulator** – British Columbia
**Type and Date:**
Preliminary Long Form Prospectus dated March 21, 2025
NP 11-202 Preliminary Receipt dated March 24, 2025
**Offering Price and Description:**
6,000,000 Common Shares
Price per Security: $0.10
**Filing #** 06256318

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# B.10
# Registrations

### B.10.1 Registrants

| Type | Company | Category of Registration | Effective Date |
|---|---|---|---|
| Change in Registration Category | Foster & Associates Financial Services Inc. | From: Investment Dealer<br><br>To: Investment Dealer and Mutual Fund Dealer | March 24, 2025 |
| Suspended (Pending Surrender) | Goodman & Company, Investment Counsel Inc. | Investment Fund Manager, Portfolio Manager and Exempt Market Dealer | March 24, 2025 |

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# B.11
# CIRO, Marketplaces, Clearing Agencies and Trade Repositories

### B.11.2 Marketplaces

#### B.11.2.1 TSX Inc. and Alpha Exchange Inc. – Proposed Amendments – Notice and Request for Comments

**NOTICE OF**
**PROPOSED AMENDMENTS AND REQUEST FOR COMMENTS**

**TSX INC. AND ALPHA EXCHANGE INC.**

Each of TSX Inc. ("**TSX**") and Alpha Exchange Inc. ("**Alpha**", and together with TSX, the "**Exchanges**") is publishing this Notice of Proposed Amendments and Request for Comments in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto" regarding certain changes to amend the functionality of the Minimum Interaction Size ("**MIS**") and Minimum Quantity ("**MinQty**") features on TSX (TSX DRK only) and on Alpha (Alpha DRK only), as described below.

Market participants are invited to provide comments. Comments should be in writing and delivered by May 5, 2025 to:

Linda Zhang
Legal Counsel,
Regulatory Affairs
TMX Group
100 Adelaide Street West, Suite 300 Toronto, Ontario M5H 1S3
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Trading & Markets Division
Ontario Securities Commission
20 Queen Street West
Toronto, Ontario M5H 3S8
Email: TradingandMarkets@osc.gov.on.ca

Comments will be made publicly available unless confidentiality is requested. Upon completion of the review by staff at the Ontario Securities Commission ("**OSC**"), and in the absence of any regulatory concerns, a notice will be published to confirm approval by the OSC.

**Background, Outline of the Amendments and Rationale**

Each of TSX and Alpha operate a dark order book where there is no pre-trade transparency (i.e., participants do not see the opposite side of the order prior to a trade). The dark orders (referred to as DRK on our equities exchanges) may be submitted with an optional MIS or MinQty instruction, enabling participants to customize their trading strategies by giving them control over the size of the orders they deal with.

MIS, for instance, is a tool particularly useful for those dealing in large volumes. It allows participants to set a threshold for the minimum size of any single opposing order (i.e. contra-side order) they are willing to interact with. In particular, when an incoming order attempts to match against a resting order with MIS, it will compare the incoming order's original volume against the MIS value to determine eligibility of the incoming order to match (the "**Current MIS Eligibility**"), thus mitigating the potential market impact of executing large orders. For example, an order that is entered MIS assists in maintaining price stability, as it prevents large orders from being broken up and being filled through numerous smaller transactions, which could lead to undesirable price fluctuations in the market.

MinQty provides participants with the ability to specify the minimum volume parameters that must be met for the MinQty order to be executed, regardless of the size of any single contra-side order. Thus, while MIS is focused on a minimum size from a *single* opposing order, MinQty can be used to aggregate multiple opposing orders to reach the minimum volume. MinQty is especially beneficial for strategies that necessitate the acquisition or disposal of large positions at a consistent price. It ensures that orders

are only executed when a significant portion can be filled at once, thus aiding participants in managing execution quality and avoiding the pitfalls of partial fills that might not align with their intended trading outcomes.

Currently, when the remaining balance of a MIS or MinQty order's size falls below the participant's specified MIS or MinQty thresholds, instead of canceling the MIS or MinQty order, our trading system: (i) in the case of a MIS order, allows the remaining volume to trade in any board lot amount(s) (the "**Current MIS Functionality**"), and (ii) in the case of a MinQty order, assigns the order a new minimum threshold equal to the remaining order size, in effect becoming an "All or None" order (which means partial fills are not accepted) for the remaining volume (the "**Current MinQty Functionality**", and together with the Current MIS Functionality, the **"Current Functionality**"). This adherence to the standard protocol is aimed at ensuring order completion and facilitating seamless trade executions.

The chart below illustrates the Current Functionality for MIS and MinQty orders.

MIS

A sell order of 100,000 shares, with a MIS of 1,000 at $10.00 is entered.

| Scenario* | Buy Order #1 | Buy Order #2 | Result | Balance |
|---|---|---|---|---|
| # **1** | 1,000 shares at $10.00 | - | Trades because since order meets the MIS | 99,000 shares; continues to trade against single orders of at least 1,000. Where balance falls below the MIS (1,000), the balance can trade against any board lot sized order(s).** |
| **#2** | 500 shares at $10.00 | - | Does not trade because order does not meet MIS | 100,000 shares; continues to trade against single orders of at least 1,000. Where balance falls below the MIS (1,000), the balance can trade against any board lot sized order(s).** |
| # **3** | 500 shares at $10.00 | 500 shares at $10.00 | Does not trade because no single order meets the MIS | 100,000 shares; continues to trade against single orders of at least 1,000. Where balance falls below the MIS (1,000), the balance can trade against any board lot sized order(s).** |
| # **4** | 1,200 shares at $10.00 | - | Trades because order meets the MIS | 98,800 shares; continues to trade against single orders of at least 1,000. Where balance falls below the MIS (1,000), the balance can trade against any board lot sized order(s)** |

**Each scenario is independent from each other and is not a continuation of the original sell order.*
***For example, where the remaining balance of shares after orders executed is 600 (from 100,000), this balance would trade in any board lot amounts, even though it is not 1,000 shares (being the MIS).*

MinQty

A sell order of 100,000 shares, with a MinQty of 1,000 at $10.00 is entered.

| Scenario | Buy Order #1 | Buy Order #2 | Result | Balance |
|---|---|---|---|---|
| # **1** | 1,000 shares at $10.00 | - | Trades because aggregate trade size meets the MinQty | 99,000 shares; continues to trade in amounts of at least 1,000 (in aggregate). Where balance falls below the MinQty (1,000), the balance is deemed the MinQty and trades where the new MinQty is met.** |
| # **2** | 500 shares at $10.00 | - | Does not trade because aggregate trade size does not meet MinQty | 100,000 shares; continues to trade in amounts of at least 1,000. Where balance falls below the MinQty (1,000), the balance is deemed the MinQty and trades where new MinQty is met.** |
| # **3** | 500 shares at $10.00 | 600 shares at $10.00 | Trades because aggregate trade size meets or exceeds the MinQty | 98,900 shares; continues to trade in amounts of at least 1,000 (in aggregate). Where balance falls below the MinQty (1,000), the balance is deemed the MinQty and trades where new MinQty is met.** |

**Each scenario is independent from each other and is not a continuation of the original sell order.*
***For example, where the remaining balance of shares after orders executed is 600 (from 100,000), this balance would trade even though it is not 1,000 shares (being the MinQty), but can only trade if the entire remaining volume is satisfied (i.e. treated as an All or None order).*

Given the evolving nature of trading strategies and the diverse needs of market participants, there have been requests from some participants to modify the Current Functionality and Current MIS Eligibility as follows:

(i) when a MinQty order's remaining (or balance) size (or volume) falls below the MinQty thresholds, instead of being assigned a new minimum threshold equal to the remaining order size (becoming an "All or None" order for the remaining volume), the default behaviour for MinQty orders will be that of the Current MIS Functionality (i.e. the remaining volume of the MinQty order is permitted to trade in any board lot amount(s)) (the "**Proposed MinQty Amendment**");

(ii) a participant may, when entering an order, opt out of using the the default Current Functionality and instead choose to set an instruction so that when a MIS or MinQty order's remaining (or balance) size (or volume) falls below the MIS or MinQty thresholds, it is canceled instead of allowing the remainder to be executed (the "**Proposed MIS/MinQty Functionality**"); and

(iii) as mentioned above, the Current MIS eligibility is determined by the entered size of an incoming contra-side order and the total remaining volume of a resting contra-side order. Each of the Exchanges is proposing to modify the Current MIS Eligibility to consider the remaining tradeable volume of an incoming contra-side order (instead of the entered size of an incoming contra-side order) (the "**MIS Eligibility Amendments**", and together with the Proposed MinQty Amendment, and the Proposed MIS/MinQty Functionality, the "**Amendments**").

Each of the Exchanges believes that the Proposed MIS/MinQty Functionality will enhance the overall effectiveness and predictability of trade executions, as participants would be able to decide whether they want to allow on an order by order basis, for the Current Functionality, or the Proposed MIS/MinQty Functionality, and cancel orders that fall below the MIS or MinQty thresholds. By offering this flexibility, participants can retain autonomy, and gain greater precision, over how their orders are handled, by ensuring that all trade executions align closely with their initial conditions, while also having the ability to elect to use the Current Functionality.

Each of the Exchanges believes that aligning the behaviour of the MinQty and MIS order types in scenarios where the order size falls below the threshold of MIS/MinQty would ensure consistency between the two order types without significantly altering the execution process of the order types. In such scenarios, Proposed MinQty Amendments will allow MinQty orders to replicate the

behaviour of the MIS order type, which may lead to improved market liquidity as this order type could now interact with different order sizes.

Similarly, each of the Exchanges believes that the MIS Eligibility Amendments will also enhance the overall effectiveness and predictability of trade executions as participants will receive at least their full order quantity as entered, which translates to better trading precision and a more predictable market experience.

Amendments to the Toronto Stock Exchange Rule Book or Alpha Trading Policy Manual are not required in order to take into account the Amendments.

**Analysis of Impact**

*(i) Expected impact on the market structure, members and, if applicable, on investors, issuers and capital markets*

We anticipate that the Amendments will have a positive impact on the market structure, members, investors, issuers or the capital markets. Each of the Exchanges believes that the Amendments are fair and reasonable, and will not create barriers to access.

Clients will be required to update their routing methodology and trading strategies to take the Amendments into account. Technical developments are not required for clients to take the Amendments into account, however clients will be required to use an additional tag when entering an order if opting out of the Current Functionality in accordance with the Proposed MIS/MinQty Functionality.

*(ii) Expected impact of the Amendments on each to the Exchange's compliance with Ontario securities law and in particular on requirements for fair access and maintenance of fair and orderly markets*

The Amendments will not impact each of the Exchange's compliance with applicable securities law and in particular the requirements for fair access and maintenance of fair and orderly markets. As noted above, each of the Exchanges is of the view that the Amendments will support the maintenance of fair and orderly markets.

*(iii) Public Interest*

For the reasons mentioned above, each of the Exchanges is of the view that the Amendments are not contrary to the public interest.

**Consultations undertaken in formulating the Amendments, including the internal governance process**

In formulating the Amendments, the internal governance process for each of the Exchanges was followed, which included receipt of the appropriate management-level approval, and all applicable internal groups at each Exchange were consulted.

We received feedback from certain clients indicating they were generally supportive of the Amendments. Other clients prefer the Current Functionality of MIS and MinQty, and will continue to have the option to use these features as they currently are. Please also see the section entitled "Background, Outline of the Amendments and Rationale" for more details.

**Any alternatives considered**

No alternatives were considered.

**Do the Amendments Currently Exist in Other Markets or Jurisdictions**

While other marketplaces in Canada have similar order features as MIS and MinQty, these order features function as per the Current Functionality and the MIS Eligibility. We are unaware of any other marketplace in Canada that allows a participant the option of the Proposed MIS/MinQty Functionality when the remaining balance of a MIS or MinQty order's size falls below the participant's specified MIS or MinQty thresholds, or that has MIS eligibility criteria similar to the Proposed Eligibility Amendments.

**Timing**

We intend to implement the Amendments in the Q2 of 2025, subject to regulatory approval and client readiness.

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