The Ontario Securities Commission

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Securities Act of Ontario (R.S.O. 1990, c. S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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Table of Contents

Chapter 1

Notices / News Releases

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 Noshad Dowlati – ss. 127(1), 127(10)

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
NOSHAD DOWLATI

NOTICE OF HEARING
(Subsections 127(1) and 127(10))

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), at the offices of the Commission, 20 Queen Street West, 17th Floor, Toronto, Ontario commencing on January 19, 2016 at 10:00 a.m.;

TO CONSIDER whether, pursuant to subsection 127(1) and paragraph 4 of subsection 127(10) of the Act, it is in the public interest for the Commission to make an order:

1. against Noshad Dowlati ("Dowlati") that:

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

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

    c. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the Act, Dowlati resign any positions that he holds as director or officer of any issuer or registrant;

    d. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the Act, Dowlati be prohibited permanently from becoming or acting as an officer or director of any issuer or registrant;

    e. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Dowlati be prohibited permanently from becoming or acting as a registrant; and

2. to make such other order or orders as the Commission considers appropriate.

BY REASON of the allegations set out in the Statement of Allegations of Staff of the Commission dated December 14, 2015 and by reason of an Order of the British Columbia Securities Commission dated June 18, 2015, and such additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that at the hearing on January 19, 2016 at 10:00 a.m., Staff will bring an application to proceed with the matter by written hearing, in accordance with Rule 11 of the Ontario Securities Commission *Rules of Procedure* (2014), 37 OSCB 4168 and section 5.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended, and any party to the proceeding may make submissions in respect of the application to proceed by written hearing;

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel at the hearing;

AND TAKE FURTHER NOTICE that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of the party and such party is not entitled to any further notice of the proceeding;

AND TAKE FURTHER NOTICE that the Notice of Hearing is also available in French, participation may be in either French or English and participants must notify the Secretary's Office in writing as soon as possible, and in any event, at least thirty (30) days before a hearing if the participant is requesting a proceeding to be conducted wholly or partly in French; and

ET AVIS EST ÉGALEMENT DONNÉ PAR LA PRÉSENTE que l'avis d'audience est disponible en français, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Bureau du secrétaire par écrit le plut tôt possible et, dans tous les cas, au moins trente (30) jours avant l'audience si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

DATED at Toronto this 15th day of December, 2015.

"Josée Turcotte"
Secretary to the Commission

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
NOSHAD DOWLATI

STATEMENT OF ALLEGATIONS OF
STAFF OF THE ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission ("Staff") allege:

I. OVERVIEW

1. Noshad Dowlati ("Dowlati") is subject to an order made by the British Columbia Securities Commission ("BCSC") dated June 18, 2015 (the "BCSC Order") that imposes sanctions, conditions, restrictions or requirements upon him.

2. In its findings on liability and sanctions dated June 18, 2015 (the "Findings"), a panel of the BCSC (the "BCSC Panel") found that Dowlati traded in securities and acted as an adviser without being registered to do so, and perpetrated a fraud on an investor.

3. Staff are seeking an inter-jurisdictional enforcement order, pursuant to paragraph 4 of subsection 127(10) of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").

4. The conduct for which Dowlati was sanctioned took place between the fall of 2011 and December 2012 (the "Material Time").

5. As of the date of the Findings, Dowlati was a resident of British Columbia and had never been registered under the British Columbia *Securities Act*, RSBC 1996, c. 418 (the "BC Act").

6. During the Material Time, Dowlati operated a blog with others called The Morning Reports, which offered commentaries on market conditions and stock picks. In the fall of 2011, Dowlati was approached by an investor who had hired Dowlati as a tutor and followed Dowlati's blog. Based on the investor's discussions with Dowlati and his review of Dowlati's blog, the investor concluded that Dowlati had "financial savvy." The investor provided Dowlati with $10,000 to invest on his behalf, on the agreement that Dowlati's trading authority would cease if the value of the investments fell below $8,000, and that Dowlati would receive a 7% commission on any gains in excess of the original investment.

7. Dowlati spent $1,000 of the $10,000 the investor gave him on personal expenses such as credit card payments, retail purchases and restaurant meals, and lost the remaining $9,000 by early January 2012 through trading losses. Dowlati did not inform the investor of the losses, and, in fact, told the investor the value of his investments was up by $500.

8. Believing that he was making money, the investor gave Dowlati a further $5,000 in late January 2012 to invest, which Dowlati then also lost in the markets.

II. THE BCSC PROCEEDINGS

The BCSC Findings

9. In its Findings, the BCSC Panel found the following:

   a. Dowlati perpetrated a fraud, contrary to section 57(b) of the BC Act;

   b. Dowlati traded in securities without registration, and where no exemptions were available to him, contrary to section 34(a) of the BC Act; and

   c. Dowlati acted as an adviser without registration, and where no exemptions were available to him, contrary to section 34(b) of the BC Act.

The BCSC Order

10. The BCSC Order imposed the following sanctions, conditions, restrictions or requirements upon Dowlati:

    a. under section 161(1)(b)(ii) of the BC Act, Dowlati be permanently prohibited from trading in, or purchasing securities or exchange contracts;

    b. under section 161(1)(d)(i) of the BC Act, Dowlati resign any position he holds as a director or officer of any issuer or registrant;

    c. under section 161(1)(d)(ii) of the BC Act, Dowlati is permanently prohibited from becoming or acting as a director or officer of any issuer or registrant;

    d. under section 161(1)(d)(iii) of the BC Act, Dowlati is permanently prohibited from becoming or acting as a registrant;

    e. under section 161(1)(d)(iv) of the BC Act, Dowlati is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market;

    f. under section 161(1)(d)(v) of the BC Act, Dowlati is permanently prohibited from engaging in investor relations activities;

    g. under section 161(1)(g) of the BC Act, Dowlati pay to the BCSC $14,050; and

    h. under section 162 of the BC Act, Dowlati pay to the BCSC an administrative penalty of $30,000.

III. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

11. Dowlati is subject to an order of the BCSC imposing sanctions, conditions, restrictions or requirements upon him.

12. Pursuant to paragraph 4 of subsection 127(10) of the Act, an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on a person or company may form the basis for an order in the public interest made under subsection 127(1) of the Act.

13. Staff allege that it is in the public interest to make an order against Dowlati.

14. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

15. Staff request that this application be heard by way of a written hearing pursuant to Rules 2.6 and 11 of the Ontario Securities Commission *Rules of Procedure*.

DATED at Toronto, this 14th day of December, 2015.

1.5 Notices from the Office of the Secretary

1.5.1 Future Solar Developments Inc. et al.

FOR IMMEDIATE RELEASE
December 16, 2015

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
FUTURE SOLAR DEVELOPMENTS INC.,
CENITH ENERGY CORPORATION,
CENITH AIR INC.,
ANGEL IMMIGRATION INC. and
XUNDONG QIN also known as SAM QIN

TORONTO – The Commission issued an Order in the above named matter which provides that:

1. the Respondents shall provide to Staff their witness list by December 18, 2015;

2. the Respondents shall provide to Staff their witness summaries by January 11, 2016;

3. the parties shall deliver to every other party copies of documents which they intend to produce or enter as evidence at the hearing on the merits in this matter (the "Hearing Briefs") by no later than February 8, 2016;

4. the parties shall file with the Registrar copies of indices to their Hearing Briefs by no later than February 12, 2016;

5. the final interlocutory appearance shall be held on February 22, 2016 at 10:00 a.m.; and

6. the hearing on the merits in this matter shall commence on March 21, 2016 at 10:00 a.m. and continue thereafter on March 23, 24, 28 29, 30, 31 and April 1, 4 and 12, 2016 and on such further dates as agreed to by the parties and set by the Office of the Secretary.

A copy of the Order dated December 2, 2015 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOSÉE TURCOTTE
SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.2 Hussain Dhala

FOR IMMEDIATE RELEASE
December 16, 2015

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
HUSSAIN DHALA

TORONTO – The Commission issued an order in the above named matter which provides that:

(a) Staff's application to proceed by way of written hearing is granted;

(b) Staff's materials in respect of the written hearing shall be served and filed no later than December 29, 2015;

(c) Dhala's responding materials, if any, shall be served and filed no later than January 26, 2016; and

(d) Staff's reply materials, if any, shall be served and filed no later than February 9, 2016.

A copy of the Order dated December 16, 2015 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOSÉE TURCOTTE
SECRETARY

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1.5.3 Fred Louis Sebastian

FOR IMMEDIATE RELEASE
December 16, 2015

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
FRED LOUIS SEBASTIAN

TORONTO – The Commission issued an order in the above named matter which provides that:

(a) Staff's application to proceed by way of written hearing is granted;

(b) Staff's materials in respect of the written hearing shall be served and filed no later than December 29, 2015;

(c) Sebastian's responding materials, if any, shall be served and filed no later than January 26, 2016; and

(d) Staff's reply materials, if any, shall be served and filed no later than February 9, 2016.

A copy of the Order dated December 16, 2015 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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SECRETARY

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416-593-8314
1-877-785-1555 (Toll Free)

1.5.4 Neil Suresh Chandran et al.

FOR IMMEDIATE RELEASE
December 16, 2015

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
NEIL SURESH CHANDRAN, ENERGY TV INC., CHANDRAN HOLDING MEDIA, INC., also known as CHANDRAN HOLDINGS & MEDIA INC., and NEIL SURESH CHANDRAN doing business as CHANDRAN MEDIA

TORONTO – The Commission issued an order in the above named matter which provides that the hearing in this matter is adjourned to January 11, 2016, at 10:00 a.m.

A copy of the Order dated December 16, 2015 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOSÉE TURCOTTE
SECRETARY

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1-877-785-1555 (Toll Free)

1.5.5 Noshad Dowlati

FOR IMMEDIATE RELEASE
December 16, 2015

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
NOSHAD DOWLATI

TORONTO – The Office of the Secretary issued a Notice of Hearing pursuant to Subsections 127(1) and 127(10) of the *Securities Act* setting the matter down to be heard January 19, 2016 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter. The hearing will be held at the offices of the Commission at 20 Queen Street West, 17th Floor, Toronto.

A copy of the Notice of Hearing dated December 15, 2015 and Statement of Allegations of Staff of the Ontario Securities Commission dated December 14, 2015 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOSÉE TURCOTTE
SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.6 Dennis L. Meharchand et al.

FOR IMMEDIATE RELEASE
December 17, 2015

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
DENNIS L. MEHARCHAND,
KWOK YAN LEUNG
(also known as TONY LEUNG) and
VALT.X HOLDINGS INC.

TORONTO – The Commission issued its Reasons and Decision in the above noted matter.

A copy of the Reasons and Decision dated December 16, 2015 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOSÉE TURCOTTE
SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.7 Central GoldTrust (Trustees of) et al.

FOR IMMEDIATE RELEASE
December 18, 2015

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
AN APPLICATION BY THE TRUSTEES OF
CENTRAL GOLDTRUST and
SILVER BULLION TRUST

AND

IN THE MATTER OF
SPROTT ASSET MANAGEMENT GOLD BID LP,
SPROTT ASSET MANAGEMENT SILVER BID LP,
SPROTT ASSET MANAGEMENT LP,
SPROTT PHYSICAL GOLD TRUST and
SPROTT PHYSICAL SILVER TRUST

TORONTO – The Commission issued its Reasons and Decision in the above named matter.

A copy of the Reasons and Decision dated December 18, 2015 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOSÉE TURCOTTE
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Northern Property Real Estate Investment Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – proposed acquisition of properties by an issuer by acquiring shares of the nominee companies holding such properties – issuer unable to provide financial information for certain periods in respect of certain properties as such financial information was unavailable – issuer represented that the missing financial information was immaterial – issuer granted relief from having to provide the missing financial information in its management information circular and business acquisition report as required under securities laws.

Applicable Legislative Provisions

Form 51-102F5 Information Circular, item 14.2.
National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4, 13.1.

Citation: Re Northern Property Real Estate Investment Trust, 2015 ABASC 871

September 15, 2015

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
NORTHERN PROPERTY REAL ESTATE
INVESTMENT TRUST
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from the requirements under section 14.2 of Form 51-102F5 *Information Circular* (**51-102F5**) and section 8.4 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) to include the Missing Financial Information (as defined below) in its information circular (**Circular**) and business acquisition report (**BAR**) to be filed in respect of the Proposed Acquisition (as defined below).

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

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, NI 51-102 or MI 11-102 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

The Filer

1. The Filer is a mutual fund trust for Canadian federal income tax purposes and was created on January 2, 2002 pursuant to a declaration of trust (as amended and restated, from time to time), and is governed under the laws of the Province of Alberta.

2. The Filer's head office is located in Calgary, Alberta.

3. The Filer's principal business is to own and operate or lease residential and commercial property directly and through various subsidiaries, in British Columbia, Alberta, Saskatchewan,

Québec, Northwest Territories, Nunavut, and Newfoundland and Labrador.

4. The authorized capital of the Filer consists of an unlimited number of participating units (the **Ordinary Units**) and an unlimited number of special voting units (the **Special Voting Units**). As of September 3, 2015, there were 31,694,190 Ordinary Units and 67,796 Special Voting Units issued and outstanding.

5. The Ordinary Units are listed and posted for trading on the Toronto Stock Exchange (the **TSX**) under the symbol "NPR.UN".

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

7. The Filer's business is operated through the following structure:

   (a) the Filer holds all of the outstanding Class A limited partnership units of NPR Limited Partnership (**NPR LP**), the sole shareholder of a number of nominee companies (each an **NPR Nominee**);

   (b) each NPR Nominee is the registered owner of real property beneficially owned by the Filer; and

   (c) Class B limited partnership units of NPR LP are convertible into Ordinary Units and are held by persons or companies who formerly owned and subsequently sold real property to the Filer or an affiliate of the Filer.

True North

8. True North Real Estate Investment Trust (**True North REIT**) is a reporting issuer in each of the jurisdictions of Canada, and to the knowledge of the Filer, is not in default of securities legislation in any jurisdiction of Canada.

9. The units of True North REIT are listed and posted for trading on the TSX under the symbol "TN.UN".

10. True North REIT's business is operated through the following structure:

   (a) True North REIT holds all of the outstanding Class A limited partnership units of six limited partnerships (the **True North LPs**), the sole shareholders of a number of nominee companies (each a **True North Nominee**);

   (b) each True North Nominee is the registered owner of real property beneficially owned by True North REIT (all such real property collectively the **REIT Properties**); and

   (c) Class B limited partnership units of the True North LPs are convertible into trust units of True North REIT and are principally held by persons or companies who formerly owned and subsequently sold real property to True North REIT or an affiliate of True North REIT.

The Private Properties

11. Starlight Investments Ltd. (**Starlight**) alone or together with the Public Sector Pension Investment Board (**PSP**) indirectly owns and controls real property, including 33 properties (the **Private Properties**) to be indirectly acquired by the Filer. The registered owners of the Private Properties are 58 nominee companies (the **Starlight/PSP Nominees**), each controlled by one of seven private limited partnerships, in turn controlled by Starlight or Starlight and PSP.

The Proposed Acquisition

12. On or about October 31, 2015, the Filer plans to directly or indirectly acquire (the **Proposed Acquisition**) pursuant to a plan of arrangement under the *Business Corporations Act* (Alberta) (the **Plan of Arrangement**) the REIT Properties and the Private Properties (together, the **Acquisition Properties**).

13. Pursuant to the Plan of Arrangement:

   (a) the Filer will acquire from True North REIT all of the Class A limited partnership units of the True North LPs in exchange for Ordinary Units;

   (b) the True North LPs will remain the sole shareholders of the True North Nominees that own the REIT Properties;

   (c) holders of Class B limited partnership units of the True North LPs will exchange those units, at their election, for either Ordinary Units or new redeemable limited partnership units of the relevant True North LP, which will be convertible into Ordinary Units;

   (d) the Ordinary Units received in consideration for the Class A limited partnership units of the True North LPs will be distributed to unitholders of True North REIT, and True North REIT will be dissolved;

   (e) the Filer will acquire from various limited partnerships all of the shares of the Starlight/PSP Nominees; and

(f) in exchange for all of the outstanding shares of the Starlight/PSP Nominees, Starlight and PSP will receive a combination of cash and Class B limited partnership units of new limited partnerships to be formed by the Filer in connection with the Plan of Arrangement, which will be convertible into Ordinary Units.

14. The Proposed Acquisition involves the exchange of the Filer's securities for the securities of the businesses being acquired, being True North REIT and each of the Private Properties. Accordingly, section 14.2 of 51-102F5 requires the Filer to include in the Circular disclosure regarding each of the Filer (if it has not filed all required documents pursuant to NI 51-102), True North REIT and the Private Properties, which disclosure must be the disclosure (including financial statements) prescribed under securities legislation and described in the form of prospectus respectively that True North REIT and each of the Private Properties would be eligible to use immediately prior to the sending and filing of the Circular. True North REIT is eligible to use Form 44-101F1 *Short Form Prospectus*. The other businesses being acquired, namely the Private Properties, are eligible to use Form 41-101F1 *Information Required in a Prospectus*. The Filer has filed all required documents pursuant to NI 51-102.

15. The Proposed Acquisition is a "significant acquisition" under Part 8 of NI 51-102, and as a result the Filer will be required to file the BAR within 75 days of the completion of the Proposed Acquisition pursuant to subsection 8.2(1) of NI 51-102.

16. Subsection 8.4(8) of NI 51-102 provides that if a reporting issuer is required to include financial statements for more than one business because the significant acquisition involves an acquisition of related businesses, the financial statements for each business must be presented separately, except for periods during which the businesses have been under common control or management, in which case the reporting issuer may present the financial statements of the acquired businesses on a combined basis. The acquisition of the REIT Properties and the Private Properties will be an acquisition of related businesses, as the acquisition of the REIT Properties and the Private Properties is conditional upon the acquisition of the other, respectively. The REIT Properties and the Private Properties are not under common control or management, so the financial statements of the REIT Properties must be presented separately from those of the Private Properties. Certain Private Properties were operated under common control or management by Starlight (the **Starlight Portfolio**) and can and will be presented on a combined basis. The remaining Private Properties were operated under common control or management by joint ventures owned by Starlight and PSP (the **IMH Portfolio**) and accordingly can and will be presented on a combined basis.

17. The Filer does not have in respect of the following Private Properties (the **Subject Private Properties**) financial statements for the following periods (the **Missing Financial Information**):

(a) for 120 Dundas St. E., Mississauga, Ontario, those prior to July 30, 2013;

(b) for 100 Dundas St. E., Mississauga, Ontario, those prior to December 9, 2013;

(c) for 700 Parkhill Pl., Peterborough, Ontario, those prior to May 29, 2014;

(d) for 1-4 Balmoral Pl., Brockville, Ontario, those prior to May 30, 2014; and

(e) for each of 53 Adelaide St N., Lindsay, Ontario, 1001 Talwood Dr., Peterborough, Ontario, 1189 Talwood Crt., Peterborough, Ontario and 1200 Talwood Dr., Peterborough, Ontario, those prior to June 16, 2014.

Reasons for the Exemption Sought

18. The Filer considers each of the Private Properties, not the Starlight/PSP Nominees or the limited partnerships that directly or indirectly own the Private Properties, to constitute a business. As the Missing Financial Information is information that would otherwise be in the financial statements required to be disclosed in the BAR and Circular in respect of the Subject Private Properties, the Filer requires the Exemption Sought.

19. The Subject Private Properties were originally acquired by Starlight and PSP from small, non-institutional persons or companies that were not reporting issuers, including family-owned privately held corporations, that did not maintain the historical accounting records necessary to present the Missing Financial Information.

20. Starlight has advised the Filer that at the time of the original purchases, it made every reasonable effort to obtain access to, or copies of, the Missing Financial Information, but such efforts were unsuccessful. Accordingly, the Missing Financial Information is unavailable to the Filer.

21. It is submitted that the Subject Private Properties, and therefore the Missing Financial Information, are relatively immaterial to the Filer and its portfolio of properties as a whole (including the

Acquisition Properties), as demonstrated by the following:

(a) the aggregate purchase price for all of the Subject Private Properties is approximately $158.400 million, representing only 11.2% of the aggregate purchase price for all of the Acquisition Properties;

(b) the aggregate appraised value for all of the Subject Private Properties is $158.400 million, representing only 5.1% of the aggregate *pro forma* appraised value for all of the Filer's properties; and

(c) the estimated aggregate *pro forma* net operating income (**NOI**) for the Subject Private Properties is $7.945 million, representing only 4.7% of the aggregate pro forma NOI for all of the Filer's properties.

22. In respect of the REIT Properties, the following financial statements will be incorporated by reference in the Circular and BAR, respectively:

(a) audited annual financial statements of True North REIT for the years ended December 31, 2014 and 2013; and

(b) unaudited interim comparative financial statements of True North REIT for the three and six month period ended June 30, 2015.

23. In respect of the Private Properties, the following financial statements (the **Existing Private Properties Financial Information**) will be included in the Circular and BAR, respectively:

(a) audited consolidated annual carve-out financial statements of each of the Starlight Portfolio and the IMH Portfolio for the years ended December 31, 2014 and 2013, excluding the Missing Financial Information and shown on a combined basis, respectively; and

(b) unaudited consolidated carve-out interim comparative financial statements of each of the Starlight Portfolio and the IMH Portfolio for the three and six month period ended June 30, 2015, excluding the Missing Financial Information and shown on a combined basis, respectively.

24. The Filer will also include in the BAR and Circular, respectively, pro forma unaudited financial statements of the Filer for the year ended December 31, 2014 and the six month period ended June 30, 2015 with respect to the Proposed Acquisition (the **Pro Forma Financial Information**).

25. Management of the Filer has reviewed the available operating data provided by Starlight and PSP and considers the Private Properties, including the Subject Private Properties, to be stable properties, and therefore believes that the Existing Private Properties Financial Information is indicative of the results for the Private Properties.

Decision

The Decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that the Filer provides both the Existing Private Properties Financial Information and the Pro Forma Financial Information in each of the Circular and BAR.

"Denise Weeres"
Manager, Legal
Corporate Finance

2.1.2 Leede Jones Gable Inc. and Jones, Gable & Company Limited

Headnote

Multilateral Instrument 11-102 Passport System – National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 33-109 Registration Information (NI 33-109) – Relief from certain filing requirements of NI 33-109 in connection with a bulk transfer of business locations and registered individuals pursuant to an amalgamation in accordance with section 3.4 of Companion Policy 33-109CP to NI 33-109.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7(1).
National Instrument 33-109 Registration Information, ss. 2.2, 2.3, 2.5, 3.2, 4.2, 7.1.
Companion Policy 33-109CP, s. 3.4.
National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

Citation: Re Leede Jones Gable Inc., 2015 ABASC 985

December 14, 2015

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA AND ONTARIO

AND

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

AND

IN THE MATTER OF
LEEDE JONES GABLE INC.
(LEEDE JONES GABLE)

AND

JONES, GABLE & COMPANY LIMITED
(JONES GABLE AND TOGETHER WITH
LEEDE JONES GABLE, THE FILERS)

DECISION

Background

The principal regulator and the regulator in Ontario (the **Decision Makers**) have received an application from the Filers for a decision under the securities legislation of Ontario and Alberta (the **Legislation**) for relief from the requirements contained in sections 2.2, 2.3, 2.5, 3.2 and 4.2 of National Instrument 33-109 – *Registration Information* (**NI 33-109**) pursuant to section 7.1 of NI 33-109 to allow the bulk transfer (the **Bulk Transfer**) of registered individuals and permitted individuals (together, the **Jones Gable Individuals**) and business locations (the **Locations**) of Jones Gable from Jones Gable to the Amalgamated Corporation (defined below), on the Amalgamation Date (defined below), in accordance with section 3.4 of the Companion Policy to NI 33-109 (the **Exemption Sought**).

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

a) the Alberta Securities Commission is the principal regulator for the Exemption Sought;

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

c) the decision with respect to the Exemption Sought is the decision of the principal regulator and evidences the decision of the 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:

Leede Jones Gable

1. Leede Jones Gable, formerly Leede Financial Markets Inc. (**Leede**), is a corporation incorporated under the *Canada Business Corporations Act* and has its head office at Suite 3415, TD Canada Trust Tower, 421 – 7th Avenue S.W., Calgary, Alberta T2P 4K9.

2. Leede Jones Gable is registered as an investment dealer under the securities legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut and is also a dealer member of the Investment Industry Regulatory Organization of Canada (**IIROC**).

3. Together, Leede Jones Gable and Jones Gable have business locations in the Jurisdictions.

4. Leede Jones Gable provides a full range of financial advisory services to its clients including

advisory and discretionary investment management services.

5. Leede Jones Gable is not in default of any requirements of securities legislation in any of the Jurisdictions in which it is registered.

Jones Gable

6. Jones Gable is a corporation incorporated under the *Business Corporations Act* (Ontario) and has its head office at Suite 1000, 110 Yonge Street, Toronto, Ontario M5C 1T6.

7. Jones Gable is registered as an investment dealer under the securities legislation of British Columbia, Alberta, Manitoba, Ontario, Québec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and Labrador and is also a dealer member of IIROC.

8. Pursuant to the Transaction, as defined below, Jones Gable has been continued under the *Canada Business Corporations Act*.

9. Jones Gable provides a full range of financial advisory services to its clients including advisory and discretionary investment management services.

10. Jones Gable is not in default of any requirements of securities legislation in any of the Jurisdictions in which it is registered.

The Transaction and Amalgamation

11. On December 8, 2015, Leede acquired Jones Gable pursuant to a share exchange agreement (the **Transaction**). Jones Gable became a wholly-owned subsidiary of Leede. Upon the closing of the transaction, Leede changed its name to Leede Jones Gable.

12. Subject to obtaining the necessary approvals, on or about January 1, 2016 (the **Amalgamation Date**), the Filers intend to effect a vertical amalgamation of Leede Jones Gable and Jones Gable under the *Canada Business Corporations Act*. The name of the amalgamated corporation (the **Amalgamated Corporation**) will be Leede Jones Gable Inc.

13. The Amalgamated Corporation's registration will encompass the registration categories, IIROC approval categories, and jurisdictions of the Filers.

14. Leede Jones Gable has written to the clients of Jones Gable in connection with the bulk transfer of their accounts, which will be effected on the Amalgamation Date.

15. On the Amalgamation Date, all Jones Gable Individuals and Locations will be transferred to the Amalgamated Corporation on the National Registration Database (**NRD**).

16. Effective on the Amalgamation Date, the Amalgamation Corporation will carry on the same business as the Filers, all of the registerable activities of the Filers will be carried out by the Amalgamated Corporation and the dealing representatives transferred to the Amalgamated Corporation will carry on the same registerable activity as they conducted with Jones Gable.

17. The head office location and NRD number of the Amalgamated Corporation will be the same as the current head office location and NRD number of Leede Jones Gable.

18. On the Amalgamation Date, all of the Jones Gable Individuals will be the only registered individuals of Jones Gable and the Locations will be the only branches and sub-branches of Jones Gable, enabling the change of Locations and transfer of the Jones Gable Individuals to the Amalgamated Corporation on the Amalgamation Date by way of Bulk Transfer.

Submissions in support of the Exemption Sought

19. Subject to obtaining the Exemption Sought, no disruption in the services provided by Leede Jones Gable or Jones Gable to their clients is anticipated as a result of the Transaction and subsequent Amalgamation.

20. The Exemption Sought will not have any negative consequences on the ability of Leede Jones Gable, Jones Gable or the Amalgamated Corporation to comply with any applicable regulatory requirements or their ability to satisfy any obligations in respect of their clients.

21. Given the number of Jones Gable Individuals and Locations to be transferred from Jones Gable to the Amalgamated Corporation on the Amalgamation Date, it would be unduly time consuming and difficult to transfer each of the Jones Gable Individuals and Locations through NRD in accordance with the requirements of NI 33-109 if the Exemption Sought is not granted.

22. Allowing the Bulk Transfer to occur on the Amalgamation Date will benefit, and have no detrimental impact on, the clients of the Filers by facilitating seamless service on the part of the Filers and the Amalgamated Corporation.

23. The Exemption Sought complies with the requirements and reasons for, a bulk transfer as set out in Section 3.4 of the Companion Policy to NI 33-109 and Appendix C thereto.

24. It would not be prejudicial to the public interest to grant the Exemption Sought.

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.

"Lynn Tsutsumi, CA"
Director, Market Regulation
Alberta Securities Commission

2.1.3 Sprott Asset Management LP

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from sections 2.3(1)(f), 2.3(1)(h), 2.5(2)(a) and 2.5(2)(c) of National Instrument 81-102 – Investment Funds to permit mutual funds to invest up to 10% of net asset value in leveraged ETFs, inverse ETFs and commodity ETFs traded on Canadian or U.S. stock exchanges.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.3(1)(f), 2.3(1)(h), 2.5(2)(a), 2.5(2)(c), 19.1.

December 16, 2015

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

AND

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

AND

IN THE MATTER OF
SPROTT ASSET MANAGEMENT LP
(the Filer)

AND

IN THE MATTER OF
THE FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the existing and future mutual funds managed by the Filer (each, a **Fund** and collectively, the **Funds**), other than Sprott Gold Bullion Fund, Sprott Silver Bullion Fund, Sprott Gold Bullion Class and Sprott Silver Bullion Class, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Funds from:

(a) sections 2.3(1)(f) and 2.3(1)(h) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) to permit each Fund to invest indirectly in physical commodities other than gold through investments in Commodity ETFs (as defined below); and

(b) sections 2.5(2)(a) and 2.5(2)(c) of NI 81-102 to permit each Fund to invest in the following categories of exchange-traded funds (**ETFs**) traded on a stock exchange in Canada or the United States that do not qualify as "index participation units" (**IPUs**) (as defined in NI 81-102) (the following ETFs are each referred to as an **Underlying ETF** and collectively as **Underlying ETFs**):

(i) ETFs that seek to provide daily results that replicate the daily performance of a specified widely-quoted market index (the **Underlying Index**) by a multiple of up to 200% (Leveraged Bull ETFs) or an inverse multiple of up to 200% (**Leveraged Bear ETFs**, which, together with Leveraged Bull ETFs are collectively referred to as **Leveraged ETFs**);

(ii) ETFs that seek to provide daily results that replicate the daily performance of their Underlying Index by an inverse multiple of up to 100% (**Inverse ETFs**);

(iii) ETFs that seek to provide daily results that replicate the daily performance of gold or silver or the value of a specified derivative the underlying interest of which is gold or silver on an unlevered basis (the ETF's **Underlying Gold or Silver Interest**), by a multiple of up to 200% (**Leveraged Gold ETFs** and **Leveraged Silver ETFs**, respectively); and

(iv) ETFs that have exposure to one or more physical commodities, including but not limited to gold and silver, on an unlevered basis (**Unlevered Commodity ETFs**, which, together with Leveraged Gold ETFs and Leveraged Silver ETFs, are collectively referred to as **Commodity ETFs**)

(the **Exemption Sought**).

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

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

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

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

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

The Filer and the Funds

1. The Filer is a limited partnership formed and organized under the laws of the Province of Ontario. The general partner of the Filer is Sprott Asset Management GP Inc., a corporation incorporated under the laws of the Province of Ontario. The head office of the Filer is located in Ontario.

2. The Filer is registered under the securities legislation: (i) in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as an adviser in the category of portfolio manager; (ii) in Ontario, Newfoundland and Labrador and Quebec as an investment fund manager; and (iii) in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as a dealer in the category of exempt market dealer. The Filer is also registered in Ontario as a commodity trading manager.

3. The Filer acts, or will act, as manager and portfolio manager of each of the Funds.

4. Each Fund is, or will be, a mutual fund governed by the laws of Canada or a jurisdiction in Canada and a reporting issuer under the laws of one or more provinces and territories of Canada.

5. Neither the Filer nor the Funds are in default of securities legislation in any of the provinces or territories of Canada.

6. Securities of each Fund are or will be qualified for distribution in some or all of the jurisdictions of Canada under a simplified prospectus, annual information form and fund facts prepared and filed in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure*. Each Fund is, or will be, governed by NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.

Existing Commodity Relief and Fund-of-Funds Relief

7. Except as described below, none of the existing Funds currently has relief from sections 2.3(1)(f) and (h) of NI 81-102.

8. As part of its investment strategy, each of Sprott Resource Class, Sprott Silver Equities Class, Sprott Gold and Precious Minerals Fund and Sprott Canadian Equity Fund has already obtained an exemption from the requirements of sections 2.3(1)(e), 2.3(1)(f) and/or 2.3(1)(h) of NI 81-102 to invest in certain physical commodities, as described below. In respect of these Funds, the Filer seeks to extend and complement the applicable existing relief of the applicable Fund to invest pursuant to the Exemption Sought. In particular, the Filer is of the view that Commodity ETFs can

provide an efficient means of obtaining exposure to physical commodities without physical holdings or entering into derivatives the underlying interest of which is a physical commodity.

9. Sprott Resource Class obtained relief to invest up to 10% of its total net assets, taken at market value at the time of purchase, in gold, permitted gold certificates, silver, silver certificates and/or specified derivatives of which the underlying interest is gold or silver in a decision document dated January 31, 2012.

10. Sprott Silver Equities Class is a "precious metals fund" as defined in National Instrument 81-104 *Commodity Pools* (**NI 81-104**). Sprott Silver Equities Class obtained relief to invest up to 20% of its total net assets, taken at market value at the time of purchase, in silver, silver certificates and/or specified derivatives of which the underlying interest is silver in a decision document dated January 31, 2012.

11. Sprott Gold and Precious Minerals Fund is a "precious metals fund" as defined in NI 81-104. Sprott Gold and Precious Minerals Fund obtained relief (i) to invest more than 10% of its net assets, taken at the market value thereof at the time of investment, in gold, gold certificates or specified derivatives of which the underlying interest is gold; and (ii) to permit the Fund to obtain indirect exposure to, or invest directly in, precious metals and minerals in a decision document dated October 24, 2001.

12. Sprott Canadian Equity Fund obtained relief to invest up to 20% of its net assets, taken at the market value thereof at the time of investment, in gold, permitted gold certificates and silver (or specified derivatives of which the underlying interest is gold or silver) in decision documents dated October 6, 2003 and April 28, 2005.

13. The Filer, together with other unrelated investment fund managers, obtained relief from section 2.5(2)(a) of NI 81-102 to invest in certain Leveraged ETFs managed by BetaPro Management Inc. in a decision document dated January 13, 2009 (the **BetaPro Relief**).

14. As of the date of the decision, the Filer will no longer rely on the BetaPro Relief.

The Underlying ETFs

15. Each Leveraged ETF will be generally rebalanced daily to ensure that its performance and exposure to its Underlying Index will not exceed +/-200% of the corresponding daily performance of its Underlying Index.

16. Each Inverse ETF will be generally rebalanced daily to ensure that its performance and exposure to its Underlying Index will not exceed -100% of the corresponding daily performance of its Underlying Index.

17. Each Leveraged Gold ETF and Leveraged Silver ETF will be generally rebalanced daily to ensure that its performance and exposure to its Underlying Gold or Silver Interest will not exceed +200% of the corresponding daily performance of its Underlying Gold or Silver Interest. Each Leveraged Gold ETF and Leveraged Silver ETF provides a Fund with market value exposure to the underlying physical commodity (i.e. gold or silver) that is two times the net asset value of the ETF on a daily basis.

18. Each Underlying ETF is, or will be, a "mutual fund" as such term is defined under the *Securities Act* (Ontario).

19. The securities of each Underlying ETF trade, or will trade, on a stock exchange in Canada or the United States.

20. The assets of a Leveraged Gold ETF and Leveraged Silver ETF consist primarily of gold or silver, as the case may be, or derivatives the underlying interest of which is gold or silver on an unlevered basis, as the case may be. The objective of these ETFs is to reflect the price of gold or silver, as the case may be (less the ETF's expenses and liabilities) on a leveraged basis.

21. The assets of Unlevered Commodity ETFs consist primarily of one or more physical commodities, or derivatives that have an underlying interest in such physical commodity or commodities. These physical commodities may include, without limitation, precious metals commodities (such as gold, silver, platinum, platinum certificates, palladium and palladium certificates), energy commodities (such as crude oil, gasoline, heating oil and natural gas), industrials and/or metals commodities (such as aluminum, copper, nickel and zinc) and agricultural commodities (such as coffee, corn, cotton, lean hogs, live cattle, soybeans, soybean oil, sugar and wheat). The objective of an Unlevered Commodity ETF is to reflect the price of the applicable commodity or commodities (less such Unlevered Commodity ETF's expenses and liabilities) on an unlevered basis, or track the performance of an index which is intended to reflect the changes in the market value of the applicable physical commodity or commodities sector.

Investment in the Underlying ETFs

22. The Funds propose to have the ability to invest in the Underlying ETFs, the securities of which are not IPUs.

23. Each Fund is, or will be, permitted, in accordance with its investment objectives and investment strategies, to invest in the Underlying ETFs.

24. Any regulatory concerns, such as undue risk, liquidity concerns or lack of transparency, in connection with investing in the Underlying ETFs are mitigated by the following facts:

    (a) The Underlying ETFs trade on a Canadian or U.S. exchange and are generally relatively liquid. The Underlying ETFs will either be "registered" investment companies in the United States or reporting issuers in one or more jurisdictions in Canada, which means that there will be clear disclosure about the Underlying ETFs readily available in the marketplace.

    (b) The amount of loss that can result from an investment by a Fund in an Underlying ETF will be limited to the amount invested by the Fund in securities of the Underlying ETF.

    (c) Investments by the Funds in Commodity ETFs will be very limited. In accordance with the investment strategies of the Funds, no more than 10% of the net asset value of the Fund will be invested in a combination of Underlying ETFs taken at market value at the time of purchase.

    (d) The simplified prospectus of the Funds will disclose: (i) in the investment strategy section: (I) that the Fund has obtained relief to invest in securities of the Underlying ETFs; (II) an explanation of what each type of Underlying ETFs is; (III) to the extent the Fund may invest in securities of a Commodity ETF, that the Fund may indirectly invest in gold and other physical commodities; and (ii) the risks associated with such investments and strategies.

25. An investment by a Fund in securities of an Underlying ETF will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Fund.

Decision

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

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

(a) the investment by a Fund in securities of an Underlying ETF is in accordance with the fundamental investment objectives of the Fund;

(b) the securities of the Underlying ETFs are traded on a stock exchange in Canada or the United States;

(c) a Fund does not purchase securities of Inverse ETFs or securities of Leveraged Bear ETFs or sell any securities short if, immediately after the transaction, the Fund's aggregate market value exposure represented by all such securities purchased and securities sold short would exceed 20% of the net asset value of the Fund, taken at market value at the time of the transaction;

(d) other than Sprott Silver Equities Class, Sprott Gold and Precious Minerals Fund and Sprott Canadian Equity Fund, a Fund's market value exposure (whether direct or indirect, including through Commodity ETFs) to all physical commodities (including gold) does not exceed 10% of the net asset value of the Fund, taken at market value at the time of the transaction;

(e) for Sprott Silver Equities Class,

    (i) the Fund only purchases Commodity ETFs that provide exposure to silver; and

    (ii) the Fund's market value exposure (whether direct or indirect, including through Commodity ETFs) to silver does not exceed 20% of the net asset value of the Fund, taken at market value at the time of the transaction.

(f) for Sprott Gold and Precious Minerals Fund,

(i) the Fund only purchases Commodity ETFs that provide exposure to gold, silver and other precious metals and minerals; and

(ii) the Fund's market value exposure (whether direct or indirect, including through Commodity ETFs) to gold, silver and other precious metals and minerals does not exceed 100% of the net asset value of the Fund, taken at market value at the time of the transaction;

(g) for Sprott Canadian Equity Fund,

(i) the Fund's market value exposure (whether direct or indirect, including through Commodity ETFs) to all physical commodities (including gold and silver) does not exceed 20% of the net asset value of the Fund, taken at market value at the time of the transaction; and

(ii) the Fund does not purchase securities of a Commodity ETF if, immediately after the transaction, the Fund's market value exposure to physical commodities other than gold and silver is more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction.

(h) each Fund does not purchase securities of an Underlying ETF if, immediately after the transaction, more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction, would consist of securities of Underlying ETFs;

(i) the simplified prospectus of each Existing Fund discloses or will disclose the next time it is renewed, and the simplified prospectus of each Future Fund discloses:

(i) in the investment strategy section:

(I) that the Fund has obtained relief to invest in securities of the Underlying ETFs;

(II) an explanation of what each type of Underlying ETFs is; and

(III) to the extent the Fund may invest in securities of a Commodity ETF, that the Fund may indirectly invest in gold and other physical commodities; and

(ii) the risks associated with such investments and strategies.

"Stephen Paglia"
Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.4 Bank of Montreal

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Parts 3 and 6.

December 16, 2015

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
BANK OF MONTREAL
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (the "**OSC Trade Reporting Rules**"), varying the Director's decision dated December 17, 2014 (the "**Original Relief Decision**"), which provides relief from reporting certain data fields required by Part 3 of the OSC Trade Reporting Rules, and from equivalent provisions in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*. The Original Relief Decision ceases to be effective after December 17, 2015 and December 16, 2015 in the case of the Québec order.

Variation Relief Sought

The Applicant has requested that the Original Relief Decision be varied: (a) so that, despite section 4 of the Original Relief Decision, the Original Relief Decision will be effective until December 17, 2016, (b) in order to update the representations set forth in the Original Relief Decision (as described below), and (c) to insert the words ", substantially in a form acceptable to OSFI, and in turn acceptable to the OSC and the AMF" at the end of clause (i) in the proviso to section 3 of the Original Relief Decision (collectively, the "**Variation Relief Sought**").

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

1. the Ontario Securities Commission is the principal regulator for this application; and

2. the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the terms defined in the Original Relief Decision have the same meanings if used in this decision.

Representations

1. This decision is based on the facts represented by the Applicant set out in the Original Relief Decision, a copy of which is attached as Appendix "A" to this decision, subject to the following:

   (a) the representation at section 9 is amended by replacing "the majority" with "some"; and

   (b) references to "Draft Guideline B-7" shall be replaced with "Guideline B-7".

2. The Applicant has received Required Counterparty Feedback from a majority, but not all, of its counterparties.

3. The Applicant has complied with the requirements of the Original Relief Decision.

4. By granting the Variation Relief Sought, the Applicant will have the opportunity to continue to make diligent efforts to obtain the Required Counterparty Feedback while avoiding a disruption to existing and prospective derivatives transactions.

5. The Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Variation Relief Sought is granted and it orders that the Original Relief Decision be varied on that basis.

This decision shall be effective on December 16, 2015.

"Kevin Fine"
Director
Ontario Securities Commission

APPENDIX "A"

December 17, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
BANK OF MONTREAL
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order in Ontario pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, RLRQ, c. I-14.01, requesting relief (the "**Exemptive Relief Sought**") from the following derivatives data reporting requirements, arising in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, Part 3 of the MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, and Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

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

1. the Ontario Securities Commission (the "**OSC**") is the Principal Regulator for the application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings defined below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Trade Specific Requirement" means a requirement arising under a Blocking Law or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

The Applicant has made the following representations:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Montréal, Québec, and its principal place of business and executive office in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant will be required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Draft Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Draft Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers (the "**AMF**"), each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures that the Applicant believes should enable it to give effect to the Local Reporting Provisions;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts; however, despite these efforts, the majority of the Applicant's counterparties have not provided some or all of the Required Counterparty Feedback;

10. a failure to provide the Exemptive Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Exemptive Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback; and

12. the Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Exemptive Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"):

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

    (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC and the AMF (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

    (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

    (iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

    and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of the Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement that has not been provided by the transaction counterparty to the Applicant; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal

identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC and the AMF (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the later of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Jurisdiction of non-reporting counterparty" and "Broker/Clearing Intermediary" in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a "local counterparty" in the Jurisdiction, provided that the Applicant reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of the Jurisdiction or that has its head office or principal place of business in the Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant.

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC and the AMF; and

(iii) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained,

and provided further that the foregoing exemptions will continue to apply in respect of a Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1, 2 and 3 shall cease to be available 1 year after the date hereof.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.5 The Bank of Nova Scotia

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Parts 3 and 6.

December 16, 2015

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
THE BANK OF NOVA SCOTIA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (the "**OSC Trade Reporting Rules**"), varying the Director's decision dated December 17, 2014 (the "**Original Relief Decision**"), which provides relief from reporting certain data fields required by Part 3 of the OSC Trade Reporting Rules, and from equivalent provisions in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, (collectively, the "**Local Reporting Provisions**"). The Original Relief Decision ceases to be effective after December 17, 2015 and December 16, 2015 in the case of the Québec order.

Variation Relief Sought

The Applicant has requested that the Original Relief Decision be varied: (a) so that, despite section 5 of the Original Relief Decision, the Original Relief Decision will be effective until December 17, 2016, (b) in order to update the representations set forth in the Original Relief Decision (as described below), (c) to insert the words ", substantially in a form acceptable to OSFI, and in turn acceptable to the OSC" at the end of clause (i) in the proviso to section 3 of the Original Relief Decision and at the end of clause (ii) in the proviso to section 4 of the Original Relief Decision (collectively, the "**Variation Relief Sought**").

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

1. the Ontario Securities Commission is the principal regulator for this application; and

2. the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the terms defined in the Original Relief Decision have the same meanings if used in this decision.

Representations

1. This decision is based on the facts represented by the Applicant set out in the Original Relief Decision, a copy of which is attached as Appendix "A" to this decision, subject to the following:

   (a) the representation at section 9 is amended by replacing "the majority" with "some"; and

   (b) references to "Draft Guideline B-7" shall be replaced with "Guideline B-7".

2. The Applicant has received Required Counterparty Feedback from a majority, but not all, of its counterparties.

3. The Applicant has established or procured internal technology, systems and procedures that the Applicant believes should enable it to give effect to the Local Reporting Provisions, with the exception of systems and infrastructure requirements necessary in order for the Applicant to Report data fields requiring completion of an LEI for a broker acting as an intermediary to a transaction, which are expected to be completed by April 30, 2016.

4. The Applicant has complied with the requirements of the Original Relief Decision.

5. By granting the Variation Relief Sought, the Applicant will have the opportunity to continue to make diligent efforts to obtain the Required Counterparty Feedback while avoiding a disruption to existing and prospective derivatives transactions.

6. The Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Variation Relief Sought is granted and it orders that the Original Relief Decision be varied on that basis.

This decision shall be effective on December 16, 2015.

"Kevin Fine"
Director
Ontario Securities Commission

APPENDIX "A"

December 17, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
THE BANK OF NOVA SCOTIA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order in Ontario pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, RLRQ, c. I-14.01, requesting relief (the "**Exemptive Relief Sought**") from the following derivatives data reporting requirements, arising in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, Part 3 of the MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, and Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained;

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting; and

(c) the requirement for a reporting counterparty to Report information in the creation data field entitled "Broker/Clearing Intermediary" where the reporting counterparty has not established reporting systems and procedures that are sufficient to enable it to Report such information.

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

1. the Ontario Securities Commission (the "**OSC**") is the Principal Regulator for the application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings defined below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Trade Specific Requirement" means a requirement arising under a Blocking Law or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

The Applicant has made the following representations:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Halifax, Nova Scotia, and its principal place of business and executive office in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant will be required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Draft Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Draft Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures that the Applicant believes should enable it to give effect to the Local Reporting Provisions, with the exception of the ability to Report data fields requiring completion of an LEI for a broker acting as an intermediary to a transaction;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts; however, despite these efforts, the majority of the Applicant's counterparties have not provided some or all of the Required Counterparty Feedback;

10. a failure to provide the Exemptive Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Exemptive Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback; and

12. the Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Exemptive Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"):

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

    (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

    (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

    (iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

    and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of the Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement that has not been provided by the transaction counterparty to the Applicant; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction

counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the later of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Jurisdiction of non-reporting counterparty" and "Broker/Clearing Intermediary" in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a "local counterparty" in the Jurisdiction, provided that the Applicant reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of the Jurisdiction or that has its head office or principal place of business in the Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "Guaranteed Affiliate"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant.

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

(iii) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained,

and provided further that the foregoing exemptions will continue to apply in respect of a Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Broker LEIs – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant is required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" in respect of the Subject Transaction until such time as the Applicant has established or procured the necessary systems and infrastructure to enable the Applicant to Report such data, provided that the Applicant:

    (i) makes diligent efforts to establish such systems and infrastructure;

    (ii) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to establish such systems and infrastructure;

    (iii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

    (iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after such systems and infrastructure has been established,

    and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant has implemented any systems, processes or other changes that the Applicant determines are needed in order to satisfy the applicable Local Reporting Provisions in respect of the Subject Transaction.

5. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1, 2, 3 and 4 shall cease to be available 1 year after the date hereof.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.6 Canadian Imperial Bank of Commerce

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking exension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Parts 3 and 6.

December 16, 2015

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
CANADIAN IMPERIAL BANK OF COMMERCE
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (the "**OSC Trade Reporting Rules**"), varying the Director's decision dated December 17, 2014 (the "**Original Relief Decision**"), which provides relief from reporting certain data fields required by Part 3 of the OSC Trade Reporting Rules, and from equivalent provisions in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*. The Original Relief Decision ceases to be effective after December 17, 2015 and December 16, 2015 in the case of the Québec order.

Variation Relief Sought

The Applicant has requested that the Original Relief Decision be varied: (a) so that, despite section 5 of the Original Relief Decision, the Original Relief Decision will be effective until December 17, 2016, (b) in order to update the representations set forth in the Original Relief Decision (as described below), (c) to insert the words ", substantially in a form acceptable to OSFI, and in turn acceptable to the OSC" at the end of clause (i) in the proviso to section 3 of the Original Relief Decision, and (d) to delete the relief contemplated in section 4 of the Original Relief Decision related to the reporting of broker LEI data fields (collectively, the "**Variation Relief Sought**").

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

1. the Ontario Securities Commission is the principal regulator for this application; and

2. the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the terms defined in the Original Relief Decision have the same meanings if used in this decision.

Representations

1. This decision is based on the facts represented by the Applicant set out in the Original Relief Decision, a copy of which is attached as Appendix "A" to this decision, subject to the following:

   (a) the representation at section 7 is amended by deleting, ", with the exception of the ability to Report data fields requiring completion of an LEI for a broker acting as an intermediary to a transaction";

   (b) the representation at section 9 is amended by replacing "a significant percentage" with "some"; and

   (c) references to "Draft Guideline B-7" shall be replaced with "Guideline B-7".

2. The Applicant has received Required Counterparty Feedback from a majority, but not all, of its counterparties.

3. The Applicant has complied with the requirements of the Original Relief Decision.

4. By granting the Variation Relief Sought, the Applicant will have the opportunity to continue to make diligent efforts to obtain the Required Counterparty Feedback while avoiding a disruption to existing and prospective derivatives transactions.

5. The Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Variation Relief Sought is granted and it orders that the Original Relief Decision be varied on that basis.

This decision shall be effective on December 16, 2015.

"Kevin Fine"
Director
Ontario Securities Commission

APPENDIX "A"

December 17, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
CANADIAN IMPERIAL BANK OF COMMERCE
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order in Ontario pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, RLRQ, c. I-14.01, requesting relief (the "**Exemptive Relief Sought**") from the following derivatives data reporting requirements, arising in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, Part 3 of the MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, and Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained;

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting; and

(c) the requirement for a reporting counterparty to Report information in the creation data field entitled "Broker/Clearing Intermediary" where the reporting counterparty has not established reporting systems and procedures that are sufficient to enable it to Report such information.

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

1. the Ontario Securities Commission (the "**OSC**") is the Principal Regulator for the application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings defined below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Trade Specific Requirement" means a requirement arising under a Blocking Law or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

The Applicant has made the following representations:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant will be required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Draft Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Draft Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures that the Applicant believes should enable it to give effect to the Local Reporting Provisions, with the exception of the ability to Report data fields requiring completion of an LEI for a broker acting as an intermediary to a transaction;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts; however, despite these efforts, a significant percentage of the Applicant's counterparties have not provided some or all of the Required Counterparty Feedback;

10. a failure to provide the Exemptive Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Exemptive Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback; and

12. the Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Exemptive Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"):

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

    (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

    (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

    (iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

    and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of the Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement that has not been provided by the transaction counterparty to the Applicant; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal

identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the later of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Jurisdiction of non-reporting counterparty" and "Broker/Clearing Intermediary" in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a "local counterparty" in the Jurisdiction, provided that the Applicant reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of the Jurisdiction or that has its head office or principal place of business in the Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "Guaranteed Affiliate"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant.

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

(iii) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained,

and provided further that the foregoing exemptions will continue to apply in respect of a Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Broker LEIs – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant is required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" in respect of the Subject Transaction until such time as the Applicant has established or procured the necessary systems and infrastructure to enable the Applicant to Report such data, provided that the Applicant:

   (i) makes diligent efforts to establish such systems and infrastructure;

   (ii) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to establish such systems and infrastructure;

   (iii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

   (iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after such systems and infrastructure has been established,

   and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant has implemented any systems, processes or other changes that the Applicant determines are needed in order to satisfy the applicable Local Reporting Provisions in respect of the Subject Transaction.

5. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1, 2, 3 and 4 shall cease to be available 1 year after the date hereof.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.7 National Bank of Canada

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Parts 3 and 6.

TRANSLATION

December 16, 2015

IN THE MATTER OF
THE DERIVATIVES ACT OF
QUÉBEC
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
NATIONAL BANK OF CANADA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Québec, Ontario and Manitoba (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order, in Québec, pursuant to Section 86 of the *Derivatives Act* , CQLR, c.I-14.01, varying Decision n° 2014-EDERI-0003 dated December 17, 2014 (the "**Original Relief Decision**"), which provides relief from reporting certain data fields required by Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01, r.1.1 and from equivalent provisions in Ontario under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*. The Original Relief Decision ceases to be effective after December 17, 2015.

Variation Relief Sought

The Applicant has requested that the Original Relief Decision be varied: (a) so that, despite section 4 of the Original Relief Decision, the Original Relief Decision will be effective until December 17, 2016, (b) in order to update the representations set forth in the Original Relief Decision (as described below), and (c) to insert the words ", substantially in a form acceptable to OSFI, and in turn acceptable to the AMF" at the end of clause (i) in the proviso to section 3 of the Original Relief Decision (collectively, the "**Variation Relief Sought**").

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

1. the Autorité des marchés financiers is the principal regulator for this application; and

2. the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, CQLR, c. V-1.1, r.3 and *Regulation 11-102 respecting Passport System*, CQLR, c. V-1.1, r.1 have the same meaning if used in this decision, unless otherwise defined.

For the purposes of this decision the terms defined in the Original Relief Decision have the same meanings if used in this decision.

Representations

1. This decision is based on the facts represented by the Applicant set out in the Original Relief Decision, a copy of which is attached as Appendix "A" to this decision, subject to the following:

   (a) the representation at section 8 is amended by replacing "a significant percentage" with "some"; and

   (b) references to "Draft Guideline B-7" shall be replaced with "Guidelines B-7".

2. The Applicant has received Required Counterparty Feedback from a majority, but not all, of its counterparties.

3. The Applicant has complied with the requirements of the Original Relief Decision.

4. By granting the Variation Relief Sought, the Applicant will have the opportunity to continue to make diligent efforts to obtain the Required Counterparty Feedback while avoiding a disruption to existing and prospective derivatives transactions.

5. The Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Variation Relief Sought is granted and it orders that the Original Relief Decision be varied on that basis.

This decision shall be effective on December 16, 2015.

"Derek West"
Directeur principal de l'encadrement des dérivés
Autorité des marchés financiers

APPENDIX "A"

December 17, 2014

IN THE MATTER OF
THE DERIVATIVES ACT OF
QUÉBEC
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
NATIONAL BANK OF CANADA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Québec, Ontario and Manitoba (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order in Québec pursuant to section 86 of the *Derivatives Act* (Québec), RLRQ, c. I-14.01, in Ontario pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, requesting relief (the "**Exemptive Relief Sought**") from the following derivatives data reporting requirements, arising in relation to new and existing transactions under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting*, Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and Part 3 of the MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

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

1. the Autorité des marchés financiers (the "**AMF**") is the Principal Regulator for the application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings defined below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Trade Specific Requirement" means a requirement arising under a Blocking Law or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

The Applicant has made the following representations:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Montréal, Québec;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant will be required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Draft Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. on October 29, 2014, the Ontario Securities Commission and the Manitoba Securities Commission, and on October 30, 2014, the AMF, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

5. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

6. the Applicant has established or procured internal technology, systems and procedures that the Applicant believes should enable it to give effect to the Local Reporting Provisions;

7. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

8. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts; however, despite these efforts, a significant percentage of the Applicant's counterparties have not provided some or all of the Required Counterparty Feedback;

9. a failure to provide the Exemptive Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

10. if the Exemptive Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback; and

11. the Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Exemptive Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "Subject Transaction"):

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the creation data

contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

(iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of the Subject Transaction, in the following circumstances:

(A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement that has not been provided by the transaction counterparty to the Applicant; or

(B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all

consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the later of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Jurisdiction of non-reporting counterparty" and "Broker/Clearing Intermediary" in respect of the Subject Transaction, in the following circumstances:

   (A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a "local counterparty" in the Jurisdiction, provided that the Applicant reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction;

   (B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of the Jurisdiction or that has its head office or principal place of business in the Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate; or

   (C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant.

   provided that the Applicant:

   (i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback;

   (ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the AMF; and

   (iii) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained,

   and provided further that the foregoing exemptions will continue to apply in respect of a Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1, 2 and 3 shall cease to be available 1 year after the date hereof.

"Derek West"
Directeur principal de l'encadrement des dérivés
Autorité des marchés financiers

2.1.8 Royal Bank of Canada

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Parts 3 and 6.

TRANSLATION

December 16, 2015

IN THE MATTER OF
THE DERIVATIVES ACT OF
QUÉBEC
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
ROYAL BANK OF CANADA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Québec, Ontario and Manitoba (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order, in Québec, pursuant to Section 86 of the *Derivatives Act* , CQLR, c. I-14.01, varying Decision n° 2014-EDERI-0002 dated December 17, 2014 (the "**Original Relief Decision**"), which provides relief from reporting certain data fields required by Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01, r. 1.1 and from equivalent provisions in Ontario under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*. The Original Relief Decision ceases to be effective after December 17, 2015.

Variation Relief Sought

The Applicant has requested that the Original Relief Decision be varied: (a) so that, despite section 5 of the Original Relief Decision, the Original Relief Decision will be effective until December 17, 2016, (b) in order to update the representations set forth in the Original Relief Decision (as described below), (c) to insert the words ", substantially in a form acceptable to OSFI, and in turn acceptable to the AMF and the OSC" at the end of clause (i) in the proviso to section 3 of the Original Relief Decision, and (d) to delete the relief contemplated in section 4 of the Original Relief Decision related to the reporting of broker LEI data fields (collectively, the "**Variation Relief Sought**").

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

1. the Autorité des marchés financiers is the principal regulator for this application; and

2. the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, CQLR, c. V-1.1, r.3 and *Regulation 11-102 respecting Passport System*, CQLR, c. V-1.1, r.1 have the same meaning if used in this decision, unless otherwise defined.

For the purposes of this decision the terms defined in the Original Relief Decision have the same meanings if used in this decision.

Representations

1. This decision is based on the facts represented by the Applicant set out in the Original Relief Decision, a copy of which is attached as Appendix "A" to this decision, subject to the following:

   (a) the representation at section 4 is amended by deleting, "Québec and";

   (b) the representation at section 7 is amended by deleting, ", with the exception of the ability to Report data fields requiring completion of an LEI for a broker acting as an intermediary to a transaction";

   (c) the representation at section 9 is amended by replacing "the majority" with "some"; and

   (d) references to "Draft Guideline B-7" shall be replaced with "Guideline B-7".

2. The Applicant has received Required Counterparty Feedback from a majority, but not all, of its counterparties.

3. The Applicant has complied with the requirements of the Original Relief Decision.

4. By granting the Variation Relief Sought, the Applicant will have the opportunity to continue to make diligent efforts to obtain the Required Counterparty Feedback while avoiding a disruption to existing and prospective derivatives transactions.

5. The Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Variation Relief Sought is granted and it orders that the Original Relief Decision be varied on that basis.

This decision shall be effective on December 16, 2015.

"Derek West"
Directeur principal de l'encadrement des dérivés
Autorité des marchés financiers

APPENDIX "A"

December 17, 2014

IN THE MATTER OF
THE DERIVATIVES ACT OF
QUÉBEC
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
ROYAL BANK OF CANADA
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Québec, Ontario and Manitoba (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order in Québec pursuant to section 86 of the *Derivatives Act* (Québec), RLRQ, c. I-14.01, in Ontario pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, requesting relief (the "**Exemptive Relief Sought**") from the following derivatives data reporting requirements, arising in relation to new and existing transactions under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting*, Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and Part 3 of the MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained;

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting; and

(c) the requirement for a reporting counterparty to Report information in the creation data field entitled "Broker/Clearing Intermediary" where the reporting counterparty has not established reporting systems and procedures that are sufficient to enable it to Report such information.

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

1. the Autorité des marchés financiers (the "**AMF**") is the Principal Regulator for the application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings defined below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Trade Specific Requirement" means a requirement arising under a Blocking Law or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

The Applicant has made the following representations:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Montréal, Québec, and its principal place of business and executive office in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant will be required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Draft Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Draft Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the Ontario Securities Commission (the "**OSC**") and the Manitoba Securities Commission, and on October 30, 2014, the AMF, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures that the Applicant believes should enable it to give effect to the Local Reporting Provisions, with the exception of the ability to Report data fields requiring completion of an LEI for a broker acting as an intermediary to a transaction;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts; however, despite these efforts, the majority of the Applicant's counterparties have not provided some or all of the Required Counterparty Feedback;

10. a failure to provide the Exemptive Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Exemptive Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback; and

12. the Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Exemptive Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "Subject Transaction"):

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

    (ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF and the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

    (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

    (iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

    and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of the Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement that has not been provided by the transaction counterparty to the Applicant; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

provided that the Applicant:

(i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the AMF and the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the later of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Jurisdiction of non-reporting counterparty" and "Broker/Clearing Intermediary" in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a "local counterparty" in the Jurisdiction, provided that the Applicant reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of the Jurisdiction or that has its head office or principal place of business in the Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant.

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the AMF and the OSC; and

(iii) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained,

and provided further that the foregoing exemptions will continue to apply in respect of a Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Broker LEIs – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant is required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" in respect of the Subject Transaction until such time as the Applicant has established or procured the necessary systems and infrastructure to enable the Applicant to Report such data, provided that the Applicant:

(i) makes diligent efforts to establish such systems and infrastructure;

(ii) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to establish such systems and infrastructure;

(iii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the AMF and the OSC; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after such systems and infrastructure has been established,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant has implemented any systems, processes or other changes that the Applicant determines are needed in order to satisfy the applicable Local Reporting Provisions in respect of the Subject Transaction.

5. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1, 2, 3 and 4 shall cease to be available 1 year after the date hereof.

"Derek West"
Directeur principal de l'encadrement des dérivés
Autorité des marchés financiers

2.1.9 The Toronto-Dominion Bank

Headnote

OSC Rule 91-507 – derivatives trade reporting obligations – applicant seeking extension of relief from requirements relating to the reporting of certain counterparty information – relief granted, subject to conditions, for a period of one year from the date of the decision.

Applicable Legislative Provisions

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Parts 3 and 6.

December 16, 2015

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
THE TORONTO-DOMINION BANK
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order, in Ontario, pursuant to Part 6 of Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* (the "**OSC Trade Reporting Rules**"), varying the Director's decision dated December 17, 2014 (the "**Original Relief Decision**"), which provides relief from reporting certain data fields required by Part 3 of the OSC Trade Reporting Rules, and from equivalent provisions in Québec under Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* and in Manitoba under Part 3 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*. The Original Relief Decision ceases to be effective after December 17, 2015 and December 16, 2015 in the case of the Québec order.

Variation Relief Sought

The Applicant has requested that the Original Relief Decision be varied: (a) so that, despite section 4 of the Original Relief Decision, the Original Relief Decision will be effective until December 17, 2016, (b) in order to update the representations set forth in the Original Relief Decision (as described below), and (c) to insert the words ", substantially in a form acceptable to OSFI, and in turn acceptable to the OSC" at the end of clause (i) in the proviso to section 3 of the Original Relief Decision (collectively, the "**Variation Relief Sought**").

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

1. the Ontario Securities Commission is the principal regulator for this application; and

2. the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the terms defined in the Original Relief Decision have the same meanings if used in this decision.

Representations

1. This decision is based on the facts represented by the Applicant set out in the Original Relief Decision, a copy of which is attached as Appendix "A" to this decision, subject to the following:

   (a) the representation at section 9 is amended by replacing "the majority" with "some"; and

   (b) references to "Draft Guideline B-7" shall be replaced with "Guideline B-7".

2. The Applicant has received Required Counterparty Feedback from a majority, but not all, of its counterparties.

3. The Applicant has complied with the requirements of the Original Relief Decision.

4. By granting the Variation Relief Sought, the Applicant will have the opportunity to continue to make diligent efforts to obtain the Required Counterparty Feedback while avoiding a disruption to existing and prospective derivatives transactions.

5. The Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Variation Relief Sought is granted and it orders that the Original Relief Decision be varied on that basis.

This decision shall be effective on December 16, 2015.

"Kevin Fine"
Director
Ontario Securities Commission

APPENDIX "A"

December 17, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE PRINCIPAL JURISDICTION)

AND

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

AND

IN THE MATTER OF
THE TORONTO-DOMINION BANK
(THE APPLICANT)

DECISION

Background

The securities regulatory authority or regulator (each a "**Decision Maker**") in each of Ontario, Manitoba and Québec (collectively, the "**Jurisdictions**") has received an application from the Applicant for an order in Ontario pursuant to Part 6 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, in Manitoba pursuant to Part 6 of MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting* and in Québec pursuant to Section 86 of the *Derivatives Act*, RLRQ, c. I-14.01, requesting relief (the "**Exemptive Relief Sought")** from the following derivatives data reporting requirements, arising in relation to new and existing transactions under Part 3 of OSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, Part 3 of the MSC Rule 91-507 – *Trade Repositories and Derivatives Data Reporting*, and Chapter 3 of the Autorité des marchés financiers' *Regulation 91-507 – respecting Trade Repositories and Derivatives Data Reporting* (collectively, the "**Local Reporting Provisions**"):

(a) the requirement for a reporting counterparty to report, update, amend or supplement (collectively, "**Report**") the Legal Entity Identifier ("**LEI**") of a transaction counterparty where such reporting could result in the reporting counterparty breaching laws applicable in the transaction counterparty's own jurisdiction that restrict or limit the disclosure of information relating to the transaction or to the counterparty or that require the transaction counterparty's consent to such disclosure in circumstances where such consent has not been obtained; and

(b) the requirement for a reporting counterparty to Report certain information (as more fully described below) related to or dependent on a transaction counterparty, which information has not been provided to the reporting counterparty by the transaction counterparty or has not otherwise been obtained by the reporting counterparty at the time of reporting.

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

1. the Ontario Securities Commission (the "**OSC**") is the Principal Regulator for the application; and

2. the decision is the decision of the Principal Regulator and evidences the decision of each other Decision Maker.

Interpretation

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

For the purposes of this decision the following terms have the meanings defined below:

"Blocking Law" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would restrict or limit a subject person's disclosure of information relating to a Subject Transaction or to the counterparty of a Subject Transaction.

"Consent Requirement" means any statute, law, enactment, rule, order, judgement, practice, guideline or decree that would require a counterparty to a Subject Transaction to consent to a subject person's disclosure of information relating to such Subject Transaction or counterparty.

"Trade Specific Requirement" means a requirement arising under a Blocking Law or in connection with a Consent Requirement that would require that steps be taken to comply therewith in connection with and at the time of a Subject Transaction, on a transaction by transaction basis.

Representations

The Applicant has made the following representations:

1. the Applicant is a Canadian Schedule I bank under the *Bank Act*, with its head office located in Toronto, Ontario;

2. the Applicant enters into derivatives transactions with multiple counterparties across Canada and around the world;

3. the Applicant will be required to Report derivative transaction data in accordance with the applicable Local Reporting Provisions, as mandated by Draft Guideline B-7 of the Office of the Superintendent of Financial Institutions ("**OSFI**");

4. while it is not specifically required by Draft Guideline B-7, the Applicant believes that adhering to the Local Reporting Provisions in Québec and Manitoba is consistent with the principles of the G-20 OTC derivatives reforms, which have been supported by the Government of Canada;

5. on October 29, 2014, the OSC and the Manitoba Securities Commission, and on October 30, 2014, the Autorité des marchés financiers, each published a press release (collectively, the "**Press Releases**") to among other things, provide guidance on the situation where a reporting counterparty may be required to Report a transaction counterparty's LEI despite the fact that such LEI has not been obtained by the transaction counterparty or provided by the transaction counterparty to a reporting counterparty;

6. to the extent that the Press Releases provide guidance in relation to compliance matters pertaining to a transaction counterparty's failure to obtain an LEI or to provide its LEI to the Applicant, the Applicant intends to reflect its understanding of such guidance in complying with the applicable Local Reporting Provisions;

7. the Applicant has established or procured internal technology, systems and procedures that the Applicant believes should enable it to give effect to the Local Reporting Provisions;

8. in order to comply with the Local Reporting Provisions applicable to a transaction, the Applicant may need to: (a) if required by applicable law, obtain a consent from the counterparty to enable the reporting counterparty to disclose information relating to the transaction or counterparty; and (b) receive certain counterparty-specific information, including the counterparty's LEI (or its equivalent), its broker's LEI (where applicable), or information sufficient to enable the Applicant to determine whether the counterparty is a local counterparty (collectively, in respect of a counterparty to a transaction, the "**Required Counterparty Feedback**");

9. the Applicant has engaged in diligent efforts to solicit Required Counterparty Feedback through direct client outreach and through industry efforts; however, despite these efforts, the majority of the Applicant's counterparties have not provided some or all of the Required Counterparty Feedback;

10. a failure to provide the Exemptive Relief Sought could result in inconsistent or disrupted reporting of derivatives data by the Applicant, or in the Applicant not entering into new derivatives transactions with affected transaction counterparties, all of which could have negative implications for the Applicant, the Canadian financial system and the broader Canadian economy;

11. if the Exemptive Relief Sought is granted, the Applicant will continue to make diligent efforts to obtain the Required Counterparty Feedback; and

12. the Applicant is not in default of securities legislation in any jurisdiction.

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 Principal Regulator is that the Exemptive Relief Sought is granted and it orders that, in respect of each transaction that is subject to Reporting in accordance with the applicable Local Reporting Provisions (in each case, a "**Subject Transaction**"):

1. Relief related to Blocking Laws – The Applicant is exempted from the Reporting of creation data under Reporting requirements contained in sections 26, 27(a), 28, 31, 32, 34 and 35 of the applicable Local Reporting Provisions (the "**Reporting Provisions**") only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of a Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Blocking Law; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Blocking Law,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if it is not feasible or not practical for the Applicant to Report an internal identifier code for the transaction counterparty in compliance with the applicable Blocking Law, reports that the LEI of the transaction counterparty is undisclosed;

    (ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are subject to an applicable Blocking Law; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Blocking Law exists;

    (iii) makes diligent efforts to determine whether Blocking Laws exist in the jurisdiction where its transaction counterparty is located; and

    (iv) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty,

    and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the date on which the Applicant becomes aware that any previously applicable Blocking Law no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

2. Relief Related to Consent Requirements – The Applicant is exempted from the Reporting of creation data under the Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Identifier of non-reporting counterparty" in respect of the Subject Transaction, in the following circumstances:

    (A) the Applicant determines that its transaction counterparty or the Subject Transaction is subject to a Consent Requirement that has not been provided by the transaction counterparty to the Applicant; or

    (B) the Applicant has yet to determine, or having used reasonable efforts has been unable to determine, if its transaction counterparty or the Subject Transaction is subject to a Consent Requirement,

    provided that the Applicant:

    (i) either (x) reports an internal identifier code for its transaction counterparty or (y) if the Applicant has all necessary processes in place to internally identify its transaction counterparty and it is not feasible or not practical for the Applicant to Report an internal

identifier code for the transaction counterparty in compliance with the applicable Consent Requirement, reports that the LEI of the transaction counterparty is undisclosed;

(ii) prepares and makes available in a timely manner to OSFI and in turn to the OSC (x) a list of all jurisdictions that it reasonably determines are jurisdictions in which an applicable Consent Requirement exists; and (y) a list of jurisdictions in respect of which the Applicant has yet to determine, or using reasonable efforts has been unable to determine, if an applicable Consent Requirement exists;

(iii) makes diligent efforts to obtain any required consent from the transaction counterparty, other than any consent that would arise in connection with a Trade Specific Requirement; and

(iv) makes diligent efforts, where required, to correct any reporting it has made in relation to the Subject Transaction in reliance on the foregoing exemptions on a timely basis after all consents required to satisfy a Consent Requirement in relation to the Subject Transaction have been obtained by the Applicant,

and provided further that the foregoing exemption will continue to apply in respect of the Subject Transaction during a period of up to 3 months following the later of (x) the date on which the transaction counterparty has provided the Applicant with all such required consents and (y) the date on which the Applicant becomes aware that any previously applicable Consent Requirement no longer applies to limit or restrict the Applicant's disclosure of information relating to the Subject Transaction or the transaction counterparty.

3. Required Counterparty Feedback – The Applicant is exempted from the Reporting of creation data under the applicable Local Reporting Provisions only to the extent that the Applicant would be required to Report the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Jurisdiction of non-reporting counterparty" and "Broker/Clearing Intermediary" in respect of the Subject Transaction, in the following circumstances:

(A) Counterparty Status as a Local Counterparty – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty is a "local counterparty" in the Jurisdiction, provided that the Applicant reports the Subject Transaction to the jurisdiction in which the Applicant has its principal place of business and, if reasonably practicable, makes diligent efforts to use the information from its own systems to Report the Subject Transaction in the transaction counterparty's jurisdiction, in each case if and to the extent it is reportable by the Applicant in such jurisdiction;

(B) Existence of a Guaranteed Affiliate – if the transaction counterparty has not provided the Applicant with Required Counterparty Feedback sufficient to enable the Applicant to determine if the transaction counterparty has an affiliate that is organized under the laws of the Jurisdiction or that has its head office or principal place of business in the Jurisdiction and that is responsible for the liabilities of the transaction counterparty (a "**Guaranteed Affiliate**"), provided that the Applicant otherwise reports the Subject Transaction on the basis that the transaction counterparty is not a Guaranteed Affiliate; or

(C) Broker LEI – if any applicable broker, who acts as an intermediary for the Applicant in respect of the Subject Transaction, without itself becoming a counterparty, has not provided its LEI to the Applicant, provided that the Applicant reports the Subject Transaction on the basis that the creation data contemplated in Appendix A of the applicable Local Reporting Provisions under "Broker/Clearing Intermediary" is undisclosed, until such time as such information has been provided to the Applicant.

provided that the Applicant:

(i) makes diligent efforts to prepare quarterly compliance reports regarding its efforts to obtain Required Counterparty Feedback;

(ii) makes such quarterly compliance reports available in a timely manner to OSFI and in turn to the OSC; and

(iii) makes diligent efforts, where required, to correct any reporting it has made in relation to a Subject Transaction in reliance on the foregoing exemptions on a timely basis after Required Counterparty Feedback has been obtained,

and provided further that the foregoing exemptions will continue to apply in respect of a Subject Transaction during a period of up to 3 months following the date on which previously unknown or unavailable Required Counterparty Feedback has been provided to the Applicant by the transaction counterparty.

4. Effectiveness of the Order – The exemptions provided pursuant to paragraphs 1, 2 and 3 shall cease to be available 1 year after the date hereof.

"Kevin Fine"
Director
Ontario Securities Commission

2.1.10 BioTime, Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from prospectus requirements to allow U.S. parent company to distribute shares of its U.S. majority owned subsidiary to shareholders – distributions not covered by legislative exemptions – U.S. parent company is a public company in the U.S. but is not a reporting issuer in Canada – U.S. company has a *de minimis* presence in Canada – following the distribution, U.S. subsidiary will not be a reporting issuer in Canada – no investment decision required from Canadian shareholders in order to receive distributions.

Applicable Legislative Provisions

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

December 17, 2015

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
BIOTIME, INC.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") for an exemption (the "**Exemption Sought**") from the prospectus requirement of section 53 of the *Securities Act* (Ontario) (the "**Act**") in connection with the proposed distribution (the "**Distribution**") by the Filer of common shares ("**OncoCyte Shares**") of OncoCyte Corporation ("**OncoCyte**"), a majority-owned subsidiary of the Filer by way of a *pro rata* dividend *in specie*, to the holders of common shares (the "**BioTime Shares**") of the Filer (the "**BioTime Shareholders**") who are resident in Canada (the "**BioTime Canadian Shareholders**").

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 Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec, Saskatchewan and the Northwest Territories.

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.

Representations relating to the Filer

1. The Filer is a biotechnology corporation incorporated in California that focuses on regenerative medicine. The Filer was incorporated on November 30, 1990 and has been publicly traded since 1992. The Filer's corporate headquarters are located at 1301 Harbor Bay Parkway, Alameda, California, 94502, U.S.A.

2. The BioTime Shares are listed on the NYSE MKT and on the Tel Aviv Stock Exchange under the ticker symbol BTX. Other than the foregoing listings on the NYSE MKT and the Tel Aviv Stock Exchange, no securities of the Filer are listed or posted for trading on any exchange or market in Canada or outside of Canada. The Filer has no present intention of listing its securities on any Canadian exchange.

3. The Filer is a registrant with the United States Securities and Exchange Commission (the "**SEC**") and is subject to the requirements of the United States Securities Exchange Act of 1934 (the "**1934 Act**"), as amended, and the rules and regulations of the NYSE MKT.

4. The Filer is not a reporting issuer in any province or territory of Canada and currently has no intention of becoming a reporting issuer under the securities laws of any province or territory of Canada.

5. As at November 9, 2015, the authorized share capital of the Filer consisted of 125,000,000 BioTime Shares and, 2,000,000 preferred shares, of which 94,894,152 BioTime Shares and no preferred shares were issued and outstanding as at the close of business on November 9, 2015.

6. According to a registered shareholder report ("**Registered Report**") prepared for BioTime by American Stock Transfer & Trust Company, LLC ("**Transfer Agent**"), its transfer agent as at November 9, 2015, there was one BioTime Canadian Shareholder holding one BioTime Share, representing approximately 0.31447% of the registered shareholders of BioTime worldwide and less than 0.0001% of the total outstanding BioTime Shares as at such date.

7. According to a beneficial ownership report (the "**Beneficial Ownership Report**") prepared for the Filer by Broadridge Financial Solutions, Inc., as at October 30, 2015 (the "**Report Date**"), and a beneficial ownership report prepared for the Filer by the Transfer Agent as of the Report Date ("**Transfer Agent Beneficial Ownership Report**" and together with the Beneficial Ownership Report, the "**Beneficial Reports**") residents of Canada: (i) beneficially owned 915,850 BioTime Shares, representing approximately 1.26% of the total number of BioTime Shares identified in the Beneficial Reports; and (ii) represented in number 639 beneficial owners of BioTime Shares, representing approximately 4.1% of the total number of beneficial holders identified in the Beneficial Reports. Together, the Beneficial Reports account for 94.2% of the BioTime Shares held through DTC (Cede & Co.) the registered holder for the U.S. book based system. The Beneficial Reports and Registered Reports account for approximately 95.3% of the total number of issued and outstanding BioTime Shares as at the Report Date and are the most comprehensive source of information available to the Filer regarding the holdings and jurisdictions of residence of the beneficial and registered holders of BioTime Shares. Based on the total number of issued and outstanding BioTime Shares at November 9, 2015, as of the Report Date, residents of Canada owned approximately 0.97% of the total number of issued and outstanding BioTime Shares. The Filer does not expect the number of BioTime Canadian shareholders, or the number of BioTime Shares beneficially owned by residents of Canada, to have changed materially between the Report Date and the record date for the Distribution, being the close of business on December 21, 2015.

Representations relating to OncoCyte

8. OncoCyte is a biopharmaceutical corporation incorporated in California on September 30, 2009 that develops screening and diagnosis techniques for lung, breast and bladder cancers. OncoCyte's corporate headquarters is located at 1301 Harbor Bay Parkway, Alameda, California, 94502, U.S.A.

9. The Filer currently holds 19,418,952 OncoCyte Shares, representing 76.4% of the issued and outstanding OncoCyte Shares. The other OncoCyte Shares of OncoCyte are held by three individuals who are registered and beneficial shareholders, none of which are Canadian residents.

10. OncoCyte is not a reporting issuer in any province or territory of Canada nor are its securities listed on any stock exchange in Canada. Oncocyte currently has no intention to become a reporting issuer under the securities laws of any province or territory of Canada or to list its securities on any exchange in Canada after the completion of the Distribution.

Representations Relating to the Distribution

11. The Distribution will be effected in accordance with the laws of California.

12. OncoCyte has prepared and, on November 23, 2015, filed a registration statement on Form 10 with the SEC detailing the proposed Distribution (the "**Registration Statement**"), in order to qualify the OncoCyte Shares for distribution to the public and as freely tradable shares (the "**Registration of Securities**"). The OncoCyte General Form for Registration of Securities will be declared effective by the SEC by the date of the Distribution, which is expected to take place on or about December 31, 2015.

13. Further to the completion of the Registration of Securities, OncoCyte Shares will be listed and traded in the United States on the NYSE MKT, or traded on the OTC Bulletin Board.

14. Pursuant to the Distribution, BioTime Shareholders will receive an *in specie* dividend of OncoCyte Shares on a ratio equal to one OncoCyte Share for every 20 BioTime Shares (the "**Ratio**").

15. Based on the Ratio and without accounting for: (i) fractional OncoCyte Shares which will not be distributed in connection with the Distribution; and (ii) OncoCyte Shares attributable to jurisdictions in which no prospectus exemption is available, and which in both cases, the distribution agent will sell the OncoCyte Shares in the open market at prevailing market prices and distribute the net cash proceeds from the sales *pro rata* to such BioTime Shareholders otherwise entitled to have received the OncoCyte Shares in the Distribution, following completion of the Distribution,

    a. BioTime Shareholders as of the close of business on December 21, 2015, being the record date for the Distribution (the "**Record Date**"), will receive approximately 4,744,708 OncoCyte Shares representing approximately 19% of the issued and outstanding OncoCyte Shares;

    b. OncoCyte will continue to be a majority-owned subsidiary of the Filer, as the Filer will continue to hold directly and through a subsidiary 14,866,888 OncoCyte Shares, representing approximately 58.55% of the issued and outstanding OncoCyte Shares; and

    c. The Filer expects there will be 639 holders of common shares of OncoCyte who are resident in Canada (the "**OncoCyte Canadian Shareholders**") holding approximately 45,793 OncoCyte Shares, representing approximately 0.18% of the approximately 25,421,952 OncoCyte Shares outstanding as at November 25, 2015.

16. Following completion of the Distribution, the BioTime Shares will continue to be listed for trading on the NYSE MKT and on the Tel Aviv Stock Exchange.

17. At the time of the Distribution and based on the Beneficial Reports and Registered Report, the number of registered and beneficial OncoCyte Canadian Shareholders and the proportion of OncoCyte Shares that will be held by OncoCyte Canadian Shareholders as a result of the Distribution, will be *de minimis*.

18. No shareholder approval of the Distribution is required or is being sought under the laws of California or any applicable United States federal securities laws.

19. BioTime Shareholders will not be required to pay any cash, deliver any other consideration or surrender or exchange their BioTime Shares in order to receive the OncoCyte Shares in connection with the Distribution. The Distribution will occur automatically without any investment decision on the part of the BioTime Shareholders (including the BioTime Canadian Shareholders).

20. The Ratio, the Record Date and the payment date for the Distribution was disclosed by the Filer by way of news release on December 11, 2015.

21. All materials relating to the Distribution sent by or on behalf of the Filer to BioTime Shareholders resident in the United States (including the information statement comprising part of the Registration Statement) (the "**Information Statement**") will be sent concurrently to the BioTime Canadian Shareholders.

22. The Information Statement will contain prospectus-level disclosure about OncoCyte.

23. Following completion of the Registration of Securities and the Distribution, OncoCyte will be subject to the requirements of the 1934 Act and, if listed for trading on the NYSE MKT, its rules and regulations, and will send the continuous disclosure materials that it sends to holders of OncoCyte Shares resident in the United States concurrently to the OncoCyte Canadian Shareholders.

24. The Distribution will not cancel or affect the number of outstanding BioTime Shares and the BioTime Shareholders will retain their BioTime Share certificates, if any.

25. The BioTime Canadian Shareholders who receive the OncoCyte Shares pursuant to the Distribution will have the benefit of the same rights and remedies in respect of the disclosure documentation received in connection with the Distribution that are available to BioTime Shareholders resident in the United States under the laws of the United States.

26. Following the completion of the Distribution, the BioTime Canadian Shareholders who receive OncoCyte Shares pursuant to the Distribution, to the extent they continue to hold such shares, will be treated as any other OncoCyte Shareholder and will be concurrently sent the same disclosure materials required to be sent under applicable U.S. laws that OncoCyte sends to OncoCyte Shareholders in the United States.

27. There will be no active trading market for the OncoCyte Shares in Canada following the Distribution and none is expected to develop. Consequently, it is expected that any resale of OncoCyte Shares distributed in the Distribution will occur through the facilities of the NYSE MKT, the OTC Bulletin Board, or any other exchange or market outside of Canada on which the OncoCyte Shares may be quoted or listed at the time that the trade occurs or to a person or company outside of Canada.

28. Neither the Filer nor OncoCyte is in default of any of its obligations under the securities legislation of any jurisdiction in Canada.

29. The distribution by the Filer of OncoCyte Shares would be exempt from the prospectus requirement pursuant to Section 2.31(2) of National Instrument 45-106 *Prospectus Exemptions* ("**NI 45-106**") but for the fact that each of BioTime and OncoCyte is not and has no intention of becoming a reporting issuer in any jurisdiction of Canada.

30. The distribution by the Filer of OncoCyte Shares would be exempt from the prospectus requirement pursuant to Section 2.31(1) of NI 45 106 but for the fact that the securities to be distributed by BioTime pursuant to the Distribution are securities of OncoCyte.

31. The distribution by the Filer of OncoCyte Shares would be exempt from the prospectus requirement pursuant to Section 2.11 of NI 45-106 but for the fact that the Distribution is not a distribution of securities pursuant to an amalgamation, merger, reorganization or arrangement described in section 2.11(a) or (b) or pursuant to a dissolution or winding-up of an issuer as provided in section 2.11(c).

32. The distribution by the Filer of OncoCyte Shares to BioTime Canadian Shareholders meets the requirements of paragraph 2.11(b)(i) of NI 45-106 in that an information circular will be delivered to each holder of BioTime Shares. However, shareholder approval of the transaction is not required under California corporate law or applicable United States federal securities laws and accordingly is not being sought. As a result, the requirement in paragraph 2.11(b)(ii) of NI 45-106 is not met.

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 first trade in the OncoCyte Shares acquired pursuant to the Distribution will be deemed to be a distribution unless the conditions in section 2.6 or section 2.14(1) of National Instrument 45-102 – *Resale of Securities* are satisfied.

"Sarah B. Kavanagh"
Ontario Securities Commission

"Anne Marie Ryan"
Ontario Securities Commission

2.1.11 Sprott Gold Bullion Fund et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemptive relief granted to permit the Royal Canadian Mint, Brink's Global Services International Inc., Loomis AB, Dillon Gage Inc. and certain of their subsidiaries to be appointed as sub-custodians to hold the bullion of current and future funds for whom RBC Investor Services Trust acts as custodian in and outside Canada, subject to certain conditions – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 6.1(2)(b), 6.1(3)(b), 6.2, 6.3, 19.1.

December 10, 2015

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

AND

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

AND

IN THE MATTER OF
THE FUNDS
(as defined below)

AND

IN THE MATTER OF
SPROTT GOLD BULLION FUND
(the Representative Fund)

AND

IN THE MATTER OF
SPROTT ASSET MANAGEMENT LP
(the Representative Manager)

AND

IN THE MATTER OF
RBC INVESTOR SERVICES TRUST
(RBCIS)

AND

IN THE MATTER OF
ROYAL BANK OF CANADA
(RBC)

AND

IN THE MATTER OF
THE ROYAL CANADIAN MINT
(the Mint) (collectively, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption pursuant to section 19.1 of National Instrument 81-102 – *Investment Funds* (**NI 81-102**) from:

(a) clause 6.1(2)(b) of NI 81-102, to permit the bullion of the Funds (as defined below) to be held outside of Canada by a Sub-Custodian to the Mint, for purposes other than facilitating portfolio transactions of the Funds;

(b) clause 6.1(3)(b) of NI 81-102, to permit the Mint and the Sub-Custodians to the Mint, respectively, which are persons or companies that are not described in sections 6.2 or 6.3 of NI 81-102, to be appointed as sub-custodians of the Funds to hold the Funds' bullion;

(c) section 6.2 of NI 81-102 to permit the Mint and the Sub-Custodians to the Mint, as applicable, to be appointed as sub-custodians of the Funds to hold the Funds' bullion in Canada; and

(d) section 6.3 of NI 81-102 to permit the Sub-Custodians to the Mint to be appointed as sub-custodians of the Fund to hold the Funds' bullion outside Canada

(collectively, 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 Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each other province and territory in Canada (together with Ontario, the **Jurisdictions**).

Interpretation

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

"bullion" means physical silver, gold, platinum or palladium bullion.

"Custodian" means RBCIS or any entity that is an affiliate and acts as successor custodian and that meets the requirements in NI 81-102 for a custodian.

"Funds" means the Representative Fund and each of the other public investment funds now, or in the future, that has appointed, or will appoint, the Custodian to act as custodian under NI 81-102 that holds, or intends to hold, bullion in its investment portfolio and that is, or will be, managed by a Manager.

"Manager" means the Representative Manager and each of the investment fund managers of the Funds.

"Mint Business Day" means any day other than a Saturday, a Sunday or a holiday observed by the Mint or the applicable Sub-Custodian to the Mint.

"Sub-Custodian to the Mint" means each person or entity listed in Schedule "A" that is, or will be, appointed as a sub-custodian to the Mint in respect of which the representations relating to a Sub-Custodian to the Mint set out below are applicable.

Representations

This decision is based on the following facts represented by the Filers, as indicated:

The Managers

1. The Representative Manager is a limited partnership formed and organized under the laws of the Province of Ontario. The head office of the Representative Manager is located in Toronto, Ontario. The general partner of the Representative Manager is Sprott Asset Management GP Inc. (the **General Partner**), which is a corporation incorporated under the laws of the Province of Ontario. The General Partner is a wholly-owned, direct subsidiary of Sprott Inc. Sprott Inc. is a corporation incorporated under the laws of the Province of Ontario and is a public company

listed on the TSX. Sprott Inc. is the sole limited partner of the Representative Manager and the sole shareholder of the General Partner.

2. The Representative Manager is registered under the securities legislation: (i) in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as an adviser in the category of portfolio manager; (ii) in Ontario, Newfoundland and Labrador and Quebec as an investment fund manager; and (iii) in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as a dealer in the category of exempt market dealer. The Representative Manager is also registered in Ontario as a commodity trading manager.

3. The Representative Manager is the manager and portfolio adviser of the Representative Fund.

4. Each of the Managers has been formed and organized under the laws of Canada or a Jurisdiction. Each of the Managers is registered under the securities legislation of one or more of the Jurisdictions in such registration categories as are necessary to carry on its business. Each of the Managers is the investment fund manager of one or more of the applicable Funds.

The Funds

5. The Representative Fund is an open-ended mutual fund trust established under the laws of Ontario. The units of the Representative Fund are qualified for distribution pursuant to a simplified prospectus, annual information form and Fund Facts dated April 23, 2015 that have been prepared and filed in accordance with the securities legislation of each applicable Jurisdiction.

6. The investment objective of the Representative Fund is to seek to provide a secure, convenient alternative for investors seeking to hold gold. The Representative Fund invests primarily in unencumbered, fully allocated gold bullion, permitted gold certificates, and/or closed-end funds the underlying interest of which is gold.

7. The Representative Fund has obtained exemptive relief from Canadian securities regulatory authorities to invest up to 100% of its net asset value, taken at the market value at the time of investment, in gold and/or permitted gold certificates. The Representative Fund's investment in gold is made in accordance with the conditions described in the exemptive relief and as described in the simplified prospectus of the Representative Fund.

8. Each of the Funds is an investment fund established under the laws of Canada or a Jurisdiction. The securities of each of the Funds is qualified pursuant to a prospectus or a simplified prospectus, annual information form and Fund Facts, as applicable, that have been prepared and filed with the securities legislation of one or more Jurisdictions such that it will be a reporting issuer under the securities legislation in one or more of the Jurisdictions.

9. The investment objective and/or strategies of each of the Funds specifies that the Fund may invest in bullion. The investment by each of the Funds in bullion is made in accordance with the securities legislation of each applicable Jurisdiction or in accordance with an exemption granted by Canadian securities regulatory authorities. Each of the Fund's investments in bullion are as described in the prospectus or simplified prospectus of the Fund.

RBCIS

10. RBCIS is a Canadian trust company incorporated under the *Trust and Loans Companies Act* (Canada) and is regulated and supervised by the Office of the Superintendent of Financial Institutions. RBCIS provides custodial services to a number of public investment funds in Canada.

11. The head office of RBCIS is located in Toronto, Ontario. The head office of RBC is located in Montréal, Québec. The head office of the Mint is located in Ottawa, Ontario.

12. Each of RBCIS, RBC, the Mint, the Representative Manager and the Representative Fund are not in default of securities legislation in any of the Jurisdictions.

Appointment of the Custodian and RBC

13. The Representative Manager has appointed the Custodian to act as the custodian of the portfolio assets for the Representative Fund. Each of the Managers has appointed the Custodian to act as the custodian of the portfolio assets for the applicable Funds. The Custodian acts as the custodian of the portfolio assets for the Representative Funds pursuant to the terms of a master trust agreement dated as of February 13, 2004, as amended (the **Trust Agreement**), and the Custodian acts as the custodian of the portfolio assets for the Funds pursuant to agreements (such agreements include the Trust Agreement, other trust agreements or custodian agreements (the **Fund Custodian**

Agreements)), that comply with all of the requirements in Part 6 of NI 81-102, other than the matters covered in the Exemption Sought.

14. In Canada, RBCIS only has one vault and as such, there is not sufficient space in the vault facilities of RBCIS to store all of the Funds' physical bullion. There are a limited number of custodians that meet the requirements in NI 81-102 and which have the vault space, facilities, operational infrastructure and expertise to hold bullion on behalf of clients.

15. As a result, the Custodian has appointed, or will appoint, RBC to be a sub-custodian of the Funds to hold each Fund's bullion. Each Manager, on behalf of each Fund, has provided, or will provide, written consent to such appointment. The custody arrangements with respect to each Fund's bullion are governed by the terms of a sub-custodian agreement between the Custodian and RBC (the **RBC Custodian Agreement**). The terms of the RBC Custodian Agreement comply with all requirements in Part 6 of NI 81-102, other than the matters covered in the Exemption Sought.

Appointment of the Mint

16. RBC has appointed, or will appoint, the Mint to be a sub-custodian to RBC and to hold each Fund's bullion pursuant to a precious metals storage and custody agreement relating to bullion dated May 29, 2013, as amended, entered into between RBC and the Mint (the **Storage and Custody Agreement**). Each Manager, on behalf of each Fund, has provided, or will provide, written consent to such appointment. The Storage and Custody Agreement will comply with the requirements of Part 6 of NI 81-102, other than the matters covered in the Exemption Sought.

17. In order to meet the bullion custody supply needs of its public investment fund clients in Canada and in considering the options available to the Funds for custody of their bullion, the Custodian has determined that the appointment by the Custodian of RBC as sub-custodian to the Custodian and the appointment by RBC of the Mint as the sub-custodian to RBC in respect of the bullion owned by the Funds is the most efficient and cost-effective means of providing storage for the Funds' bullion and represents the least operational and custodial risk for the Funds in terms of transporting, storing and managing bullion. The Custodian has determined that the Mint is the appropriate choice to provide bullion custodial services to each Fund because the Mint is experienced in providing bullion storage and custodial services, and is familiar with the requirements relating to the physical handling and storage of bullion.

18. RBC is experienced in providing bullion custody services to its clients and has a well-developed operational and control infrastructure in place. The Custodian, an affiliate of RBC, has appointed RBC as a sub-custodian to the Custodian to leverage the expertise and operational and control infrastructure of RBC in providing bullion custody services to the Funds. As part of such operational and control infrastructure RBC has appointed the Mint as its sub-custodian as described in paragraph 16.

19. The Mint operates pursuant to the *Royal Canadian Mint Act* (Canada) and is a Canadian Crown corporation. The Mint is, for all its purposes, an agent of Her Majesty in right of Canada and, as such, its obligations constitute unconditional obligations of the Government of Canada. The Mint is responsible for the minting and distribution of Canada's circulation coins. As part of its operations, the Mint maintains secure storage facilities located in Canada that it owns and operates, and provides storage space to third parties. As at September 27, 2014, the Mint had shareholders' equity of approximately $325 million.

Appointment of the Sub-Custodians to the Mint

20. Due to physical storage capacity constraints and having regard to the amount of bullion which the Funds may acquire, there may not be sufficient space in the vault facilities of the Mint to store all of the Funds' physical bullion. As a result, the Mint may be required to use the services of sub-custodians to store and hold all or a portion of each Fund's physical bullion.

21. The number of entities in Canada which are eligible to act as sub-custodians for the physical storage of bullion is limited. Of these eligible entities, some already have exclusive relationships with other investment funds for storage purposes whereas others simply may not have the excess capacity that the Funds may need to store physical bullion. These capacity constraints have been intensified due to the increased demand for physical commodities and the corresponding need to arrange for safe-keeping.

22. The Mint intends to appoint the Sub-Custodians to the Mint, if necessary, to hold all or a portion of the bullion of each of the Funds in the vault facilities operated by the applicable Sub-Custodian to the Mint located in, and outside of, Canada, as applicable. As a result of the foregoing, the Mint may be required to hold all or a portion of the Funds' bullion that it does not hold directly in its own vaults in the vaults of the Sub-Custodians to the Mint located in, or outside of, Canada, as applicable, as described in representation no. 25 below. Each Manager, on behalf of each Fund, will provide written consent to such appointment.

23. The custody arrangements with respect to the holding of the Funds' physical bullion by the Sub-Custodians to the Mint will be governed by the terms of agreements between the Mint and each Sub-Custodian to the Mint (each a **Mint Sub-Custodian Agreement**), the terms of which will comply with the requirements of Part 6 of NI 81-102, other than the matters covered in the Exemption Sought.

24. The Mint and each Sub-Custodian to the Mint are not entities that are currently approved to act as a sub-custodian for portfolio assets held in Canada, or to act as a sub-custodian for portfolio assets held outside of Canada, as the Mint and each Sub-Custodian to the Mint is not, among other things, a bank listed in Schedule I, II or III of the *Bank Act* (Canada) or a trust company incorporated under the laws of Canada.

25. Each Sub-Custodian to the Mint has experience in the precious metals storage business. Each Sub-Custodian to the Mint is a leading provider of secure logistics for valuables, including diamonds, jewellery, precious metals, securities, currency and secure data, serving banks, retailers, governments, mines, refiners and metal traders. Specifically:

    (a) Brink's Global Services International Inc. (**Brink's**) is part of The Brink's Company, which is an Approved Weigher and Member of the London Bullion Market Association (**LBMA**). Brink's does not have vault facilities but operates the following subsidiaries with vaults in the following locations:

        (i) Brink's Canada Ltd. operates vaults in Toronto, Vancouver, Calgary, Montreal and Halifax, Canada;

        (ii) Brink's Global Services USA Inc. operates vaults in New York and Los Angeles, USA, and the New York vault is an authorized depository for NYMEX/COMEX;

        (iii) Brink's U.S., a Division of Brink's Incorporated, operates vaults in Dallas, USA;

        (iv) Brink's UK Ltd. operates vaults in London, England;

        (v) Brink's Global Services Deutschland GmbH operates vaults in Frankfurt, Germany;

        (vi) Brink's Switzerland Ltd. operates vaults in Zurich, Switzerland;

        (vii) Brink's Hong Kong Ltd. operates vaults in Hong Kong, China;

        (viii) Brink's Far East Ltd. operates vaults in Shanghai, China;

        (ix) Brink's India Private Ltd. operates vaults in Mumbai, India;

        (x) Brink's Singapore Pte Ltd. operates vaults in Singapore, Singapore, and is an Approved Vault Operator for the Singapore Gold Exchange.

    (b) Dillon Gage Inc., which is an international bullion wholesaler and LBMA Associate Member, does not have vault facilities but wholly owns International Depository Services of Canada Inc. (**International Depository**), which operates vaults in Toronto, Canada. International Depository is an LBMA Associate Member and an IIROC-approved precious metals custodian.

    (c) Loomis AB of Sweden is one of the world's leading cash handling companies, operating widely in North and South America, Europe and the Far East. Its affiliates operate vault facilities in the following locations:

        (i) Loomis International (US) Inc. operates vaults in Inwood (New York), Los Angeles and Miami, USA, and is a listed gold carrier for COMEX in the USA;

        (ii) Loomis International (UK) Ltd. operates vaults in Shepperton (London), England, and is listed as an Accepted Warehouse for the LBMA. Additionally, Loomis International (UK) Ltd. is listed as an Affiliate of the London Platinum and Palladium Market (**LPPM**). Loomis International (UK) Ltd. provides storage services to members of both the LBMA and LPPM;

        (iii) Loomis International (DE) GmbH operates vaults in Frankfurt, Germany;

        (iv) Loomis International (CH) AG operates vaults in Zurich, Switzerland and provides storage services to members of both the LBMA and LPPM in Switzerland;

        (v) Loomis International (HK) Ltd. operates vaults in Hong Kong, China.

26. Each Sub-Custodian to the Mint has either: (i) not less than the amount of shareholder's equity required under NI 81-102 (the **Shareholder Equity Threshold**) for entities qualified to act as a sub-custodian for portfolio assets held in or outside of Canada, as applicable, or (ii) an affiliate that does meet the Shareholder Equity Threshold which has, or will before the Sub-Custodian to the Mint acts as a Sub-Custodian to the Mint under this order, guaranteed all of the custodial obligations of the Sub-Custodian to the Mint (a **Guaranteed Sub-Custodian**). Schedule "A" identifies which of the above requirements each Sub-Custodian to the Mint currently meets.

27. The Custodian will monitor the Sub-Custodians to the Mint on a regular basis (at least annually) to ensure that each Sub-Custodian to the Mint either meets the Shareholder Equity Threshold or is a Guaranteed Sub-Custodian.

28. The Representative Manager, each Manager, the Custodian, RBC and the Mint believe that each of the Sub-Custodians to the Mint has the resources and experience required and are appropriate sub-custodians for the Funds' physical bullion held in, or outside of, Canada, as required because each Sub-Custodian to the Mint is experienced in providing bullion storage and custodial services, and is familiar with the requirements relating to the physical handling and storage of bullion.

Custodial Arrangements

29. All physical bullion owned by each Fund will be stored in the vault facilities of either the Mint located in Canada or the applicable Sub-Custodian to the Mint located in Canada, the United States, the United Kingdom, Germany, Switzerland, China (including Hong Kong), India or Singapore, on a fully allocated and segregated basis. The Custodian, RBC, the Mint and the Sub-Custodians to the Mint shall at all times record and identify in the books and records of the Custodian, RBC, the Mint and the Sub-Custodians to the Mint that such bullion constitutes the property of the Funds, which in the case of RBC, the Mint and the Sub-Custodians to the Mint will be done through the use of a unique account identifier on a per Fund basis.

30. Under the RBC Custodian Agreement, the Storage and Custody Agreement and the Mint Sub-Custodian Agreements, the custodial arrangements will be structured in a descending order such that monitoring, instructions, directions, information and other communications will flow from the Custodian, to RBC, to the Mint and then to the Sub-Custodians to the Mint and vice versa in the case of reporting, instructions, directions, information and other communications ascending up through the custodial structure.

31. If a Fund's bullion is to be stored at the Mint's or a Sub-Custodian to the Mint's facility, under the Storage and Custody Agreement, the Custodian will give written notice to RBC of its intention to have bullion delivered to and stored at the Mint's or a Sub-Custodian to the Mint's facility, as the case may be. Then a written notice to the same effect will be given by RBC to the Mint and, if applicable, by the Mint to the relevant Sub-Custodian to the Mint. The notice will specify the amount, weight, type, assay characteristics, bar number and bar brands of the precious metal being delivered. The Mint reserves the right to refuse delivery in the event of storage capacity limitations at either its own vault or at the vault facilities of the applicable Sub-Custodian to the Mint. Upon receiving the bullion, the Mint or the Sub-Custodian to the Mint, as applicable, will verify the characteristics of the bullion against the information on the notice. After verification, the Mint will issue a "receipt of deposit" that confirms the amount, weight, type, assay characteristics, bar number and bar brands of the bullion received (each, a **Receipt of Deposit**). In the event of a discrepancy arising during the verification process, the Mint will promptly notify RBC and will also provide prompt notice to the Manager.

32. The Mint or each Sub-Custodian to the Mint will be required by the Storage and Custody Agreement or the Mint Sub-Custodian Agreement, as applicable, to keep each Fund's fully allocated bullion identifiable as the Fund's property under specifically identified account numbers as directed by RBC and will keep it physically segregated at all times from any other property belonging to the Mint or any of its customers. The Mint will provide a monthly inventory statement to RBC, which in turn will provide a monthly inventory statement to the Custodian, and the Custodian and the Manager will reconcile the inventory statement with its records of the Fund's bullion holdings.

33. The Mint is not authorized to deliver stored bullion out of safekeeping by the Mint or to authorize the delivery of stored bullion out of safekeeping by a Sub-Custodian to the Mint, without first receiving written instruction from RBC or obtaining the written approval of RBC to such delivery based on forms specified by the Mint or such Sub-Custodian to the Mint indicating the purpose of the delivery and giving direction with respect to the specific amount. A Sub-Custodian to the Mint is not authorized to deliver stored bullion out of safekeeping by the Sub-Custodian to the Mint without first receiving a written instruction from the Mint or obtaining the written approval of the Mint to such delivery based on forms specified by the Mint or such Sub-Custodian to the Mint indicating the purpose of the delivery and giving direction with respect to the specific amount. In each case, such instructions and approvals are referred to as a **Delivery Direction**.

34. RBC will not issue a Delivery Direction to the Mint unless it is directed by the Custodian on behalf of the Manager and the Fund, in the form specified in the agreement between the Fund and the Custodian.

35. Under the Storage and Custody Agreement, the Mint has the right to reject bullion delivered to it if the bullion contains a hazardous substance or if such bullion is or becomes unsuitable or undesirable for metallurgical, environmental or other reasons.

36. All bullion bars purchased by the Funds will be certified by the relevant vendor as bullion conforming to the good delivery standards of the LBMA, the London Platinum and Palladium Market or another internationally recognized bullion trading body.

37. The Representative Manager, each Manager and the Custodian believe that the Fund Custodian Agreement is consistent with investment fund industry practice. The Representative Manager, each Manager, the Custodian and RBC believe that the RBC Custodian Agreement is consistent with investment fund industry practice. The Representative Manager, each Manager, the Custodian, RBC and the Mint believe that the Storage and Custody Agreement, each Mint Sub-Custodian Agreement and the custodial arrangements with RBC, the Mint and the Sub-Custodians to the Mint in connection with the Funds' bullion are consistent with investment fund industry practice.

Supervision of the Custodian, RBC, the Mint and the Sub-Custodians to the Mint

38. The Manager is responsible for oversight of the work performed by the Custodian relating to the custody of portfolio assets of the Fund. In this regard, each Manager will oversee the Custodian, including any custodial functions that are performed by any sub-custodians appointed by the Custodian or any sub-custodians, and the selection and appointment of any sub-custodian by the Custodian, and will conduct ongoing reviews of the quality of the Custodian's services. Each Manager will have the same access to the records of the Custodian as it would if the Manager itself performed the activities and maintained the records.

39. The Custodian may appoint sub-custodians to hold the portfolio assets of the Funds from time to time. The Custodian is responsible for oversight of the sub-custodians in accordance with its standard of care, including overseeing the compliance by any sub-custodian, including those appointed by any sub-custodian, of the sub-custodian's standard of care in the services performed by the sub-custodian relating to the custody of portfolio assets of the Fund. In this regard, the Custodian will oversee the sub-custodians, including any custodial functions that are performed by any sub-custodians appointed by the Custodian or any sub-custodian, and the selection and appointment of any sub-custodian by the sub-custodian, and will conduct ongoing reviews of the quality of the sub-custodian's services. The Custodian will have the same access to the records of the sub-custodian as it would if the Custodian itself performed the activities and maintained the records.

40. The Custodian operates a Continuous Risk Assessment Model, which evaluates its sub-custodians by reviewing legal, financial, agent bank, market, operational and other areas of risk to ensure both the safety of assets and the efficient processing of same is maintained at all times. The model is evaluated on an ongoing basis by internal and external audit teams and applicable regulatory bodies.

41. The relationship between RBC and the Mint will be primarily one whereby RBC is (a) responsible for oversight of the work performed by the Mint and (b) sub-contracts the vault facilities of the Mint for the purposes of storing a Fund's bullion. The Mint will be appointed the sub-custodian of the applicable Fund in, and outside of, Canada, as required, pursuant to a written agreement between RBC and the Mint that complies with the requirements of Part 6 of NI 81-102, other than the matters covered in the Exemption Sought. RBC must have obtained the consent of the Custodian prior to the Mint being appointed. RBC will remain responsible for ensuring that, with regard to the Mint, adequate safeguards are in place, including, in the experience and judgment of RBC, satisfactory insurance arrangements. Under the RBC Custodian Agreement, RBC is required to use reasonable care in the selection and monitoring of sub-custodians. Pursuant to this obligation, RBC has engaged in, and on a periodic basis thereafter (at least annually), will engage in a review of the facilities, procedures, records, creditworthiness and level of insurance coverage of the Mint to satisfy itself as to the continuing appropriateness of using the Mint as sub-custodian of the Funds' physical bullion. The Funds will rely upon RBC to satisfy itself as to the appropriateness of the use or continued use of the Mint as a sub-custodian of each Fund's bullion.

42. The relationship between the Mint and each Sub-Custodian to the Mint will be primarily one whereby the Mint is (a) responsible for oversight of the work performed by each Sub-Custodian to the Mint and (b) sub-contracts the vault facilities of the applicable Sub-Custodian to the Mint for the purposes of storing a Fund's bullion. One or more Sub-Custodians to the Mint will be appointed the sub-custodian of the applicable Fund in, and outside of, Canada, as required, pursuant to a written agreement between the Mint and that Sub-Custodian to the Mint that complies with the requirements of Part 6 of NI 81-102, other than the matters covered in the Exemption Sought. The Mint must have obtained the consent of RBC prior to a Sub-Custodian to the Mint being appointed. The Mint will remain responsible for

ensuring that, with regard to each Sub-Custodian to the Mint, adequate safeguards are in place, including, in the experience and judgment of the Mint, satisfactory insurance arrangements. Under the Storage and Custody Agreement, the Mint is required to use reasonable care in the selection and monitoring of Sub-Custodians to the Mint. Pursuant to this obligation, the Mint has engaged in, and on a periodic basis thereafter (at least annually), will engage in a review of the facilities, procedures, records, creditworthiness and level of insurance coverage of each Sub-Custodian to the Mint to satisfy itself as to the continuing appropriateness of using the Sub-Custodians to the Mint as sub-custodians of the Funds' physical bullion. The Funds will rely upon the Mint, which is in the business of precious metals storage, to satisfy itself as to the appropriateness of the use or continued use of the Sub-Custodians to the Mint as a sub-custodian of each Fund's bullion.

43. Under the Storage and Custody Agreement, the Mint is required to use reasonable care in the selection and monitoring of Sub-Custodians. Pursuant to this obligation, RBC and the Mint will monitor the most recent audited financial statements of each Sub-Custodian to the Mint or their respective affiliates or subsidiaries, in order to ensure that the shareholders' equity of such entities is sufficient with what RBC and the Mint believe to be appropriate for an entity acting as custodian of physical bullion and, in any event at sufficient levels in order to meet RBC's and the Mint's own internal requirements as though RBC and the Mint were seeking to deposit their own physical bullion with such sub-custodians. RBC and the Mint will also consider the insurance coverage obtained by each Sub-Custodian to the Mint in connection with such Sub-Custodian to the Mint's bullion custody activities.

44. The Mint is required under the Storage and Custody Agreement to ensure that the terms of the agreements between itself and any Sub-Custodian to the Mint are consistent with the terms of the Storage and Custody Agreement.

Audit Rights

45. In relation to each Fund, the sub-custodial activities of the Mint and each Sub-Custodian to the Mint will be limited to holding the Fund's bullion. Each of the Custodian, RBC, the Mint and the Manager will exercise their audit rights under the RBC Custodian Agreement, the Storage and Custody Agreement and each Mint Sub-Custodian Agreement, as applicable, on an on-going basis in order to satisfy itself that the Mint and each Sub-Custodian to the Mint is in substantial compliance with the terms of the Storage and Custody Agreement and the relevant Mint Sub-Custodian Agreement and, in particular, that the bullion of the Funds held by the Mint or that the Mint has transferred to the Sub-Custodian to the Mint on behalf of the Fund (i) is held by the Mint or each applicable Sub-Custodian to the Mint at vault facilities that are accepted as warehouses for the LBMA or are, in the opinion of each of the Manager, the Custodian, RBC and the Mint, of a similar standard, (ii) is physically segregated and specifically identified as specified in paragraphs 29 and 32, (iii) has not sustained loss, damage or destruction, and (iv) remains the subject of a subsisting policy of insurance which covers the Mint's or the Sub-Custodian to the Mint's liability for the loss, damage or destruction of such bullion in amounts which the Mint deems appropriate in its experience and judgement acting reasonably.

46. Each Fund will have the right to physically count and have the Fund's auditor subject the Fund's bullion to audit procedures at the vault facilities at the Mint and the applicable Sub-Custodian to the Mint upon request on any Mint Business Day during the Mint's or the applicable Sub-Custodian to the Mint's regular business hours, provided that the Fund has given the Mint, who shall make arrangements with the applicable Sub-Custodian to the Mint, where required, a minimum of five business days' prior written notice and that such physical count or audit procedures do not interrupt the routine operation of the Mint's or the Sub-Custodian to the Mint's facility. The Mint has the right to reschedule the physical audit in the event that the Mint or the Sub-Custodian to the Mint, as the case may be, determines, acting reasonably, that the audit would disrupt the routine operation of the Mint's or the Sub-Custodian to the Mint's facility.

47. The Manager, the Custodian and RBC will ensure that bullion held by the Mint or the applicable Sub-Custodian to the Mint will be subject to a physical count and inventory reconciliation by a representative of the Manager, the Custodian and RBC, as applicable, annually and periodically on a spot-inspection basis (subject to the notice provisions described in paragraph 46), as well as subject to audit procedures by each Fund's external auditor on at least an annual basis on prior notice.

48. The Storage and Custody Agreement requires that if a Fund's representative (including a director or officer or representative of the Manager) is accessing the Mint's or a Sub-Custodian to the Mint's facility, such representative must be accompanied by at least one representative of RBC and at least one representative of the Mint or of the Sub-Custodian to the Mint, as applicable, or if bullion is held by another custodian or sub-custodian, that custodian or its sub-custodians, as the case may be.

Insurance

49. The RBC Custodian Agreement requires that each of the Custodian, RBC, the Mint and any Sub-Custodian to the Mint must at all times maintain insurance in such amounts and on such terms and conditions as the Manager and RBC

consider appropriate for RBC's business and its position as sub-custodian to the Custodian in respect of each Fund's bullion against all risk of physical loss of, or damage to, bullion stored in the Mint's or any Sub-Custodian to the Mint's vaults except risks that are beyond their control such as war, hostile or warlike actions, chemical, biological, electromagnetic or nuclear weapons or incidents, terrorism and government confiscation. None of the Managers, the Funds, nor the Custodian are beneficiary of any such insurance and none of them have the ability to dictate the nature or amount of coverage.

50. The RBC Custodian Agreement provides that RBC shall not cancel or terminate its insurance or permit its sub-custodians, including the Mint and each Sub-Custodian to the Mint, to cancel such insurance coverage except upon 20 days prior written notice to the Manager, on behalf of each Fund.

51. RBC's ability to recover from the Mint is not contingent upon the Mint's ability to claim on its own insurance or each applicable Sub-Custodian to the Mint's ability to claim on its own insurance.

52. Each Manager believes that the insurance carried by RBC, the insurance carried by the Mint, together with its status as a Canadian Crown corporation with its obligations generally constituting unconditional obligations of the Government of Canada, and the insurance carried by each Sub-Custodian to the Mint, provides each Fund with such protection in the event of loss or theft of the Fund's bullion stored at the Mint or at the applicable Sub-Custodian to the Mint that is consistent with the protection afforded by other custodians that store precious metals bullion commercially and is sufficient.

53. The Mint confirms that it has arranged for insurance coverage in respect of any bullion held by the Mint in amounts which the Mint deems appropriate in its experience and judgment, acting reasonably. The Mint confirms that pursuant to the terms of its existing relationship with each Sub-Custodian to the Mint, each Sub-Custodian to the Mint has arranged for insurance coverage in respect of any bullion held by the Mint through the vault facilities of the Sub-Custodian to the Mint in amounts which the Mint deems appropriate in its experience and judgment, acting reasonably. Each Manager and RBC have discussed with the Mint the level of insurance coverage obtained by the Mint and each Sub-Custodian to the Mint and the risks insured against by the Mint and the Sub-Custodian to the Mint and believes that the level of insurance will be sufficient and appropriate for the applicable Fund.

54. By no later than the date of the final receipt of the next renewal annual information form of the Fund, each Fund will disclose, in the final annual information form of the Fund, the material details of the Fund's custodial and sub-custodial arrangements, including the insurance arrangements of RBC, the Mint and each applicable Sub-Custodian to the Mint for the bullion of the Fund.

55. On a periodic basis (at least annually) each Sub-Custodian to the Mint will confirm to the Mint that it has reviewed its insurance policies to ensure that it has insurance coverage in the amount which the Mint deems appropriate as set forth in paragraph 53 and that any changes to its insurance coverage have been reported to the Mint. The Mint will report the results of the confirmations referred to in this paragraph 55 to RBC.

56. On a periodic basis (at least annually) the Mint will confirm to RBC that it has reviewed its insurance policy to ensure that it has the insurance coverage set forth in paragraph 53 and that any changes to its insurance coverage have been reported to RBC. RBC will report the results of the confirmations referred to in paragraphs 55 and 56 to the Custodian.

57. On a periodic basis (at least annually) RBC will confirm to the Custodian that it has reviewed its insurance policy to ensure that it has the insurance coverage set forth in paragraph 49 and that any changes to its insurance coverage have been reported to the Custodian. The Custodian will report the results of the confirmations referred to in paragraphs 55, 56 and 57 to each Manager.

58. On a periodic basis (at least annually) the Custodian will confirm to each Manager that it has reviewed its insurance policy to ensure that it has the insurance coverage as set forth in paragraph 49 and that any changes to its insurance coverage have been reported to the Manager.

Liability and Standard of Care

59. Notwithstanding any of the other representations in this decision, in the event of a claim, demand, loss, cost or damage sustained or incurred by the Funds for which the Funds are entitled to compensation (a **Loss**) under the terms of the Fund Custodian Agreements including, but not limited to, as a result of failure by the Custodian or any of its sub-custodians such as RBC, the Mint or a Sub-Custodian to the Mint, or any agent appointed by the Custodian, to comply with the standard of care under a Fund Custodian Agreement, the Custodian shall assume liability for such Loss directly and be liable for reimbursing the Funds for such Loss. The Custodian has the right under the RBC Custodian Agreement to seek recourse against RBC in the event such Loss was as a result of a failure by RBC or the Mint or any Sub-Custodian to the Mint, to comply with the standard of care. RBC has the right under the Storage and Custody

Agreement to seek recourse against the Mint in the event such Loss was as a result of a failure by the Mint or any Sub-Custodian to the Mint, to comply with the standard of care. The Mint has the right under the relevant Mint Sub-Custodian Agreement to seek recourse against the Sub-Custodian to the Mint in the event such Loss was as a result of a failure by the Sub-Custodian to the Mint to comply with the standard of care.

60. Pursuant to the Fund Custodian Agreements, the Custodian has agreed to exercise (i) the same degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances or (ii) at least the same degree of care as it exercises with respect to its own property of a similar kind if this is a higher degree of care than the degree of care described in (i) hereto.

61. Pursuant to the RBC Custodian Agreement, RBC has agreed to exercise (i) the same degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances or (ii) at least the same degree of care as it exercises with respect to its own property of a similar kind if this is a higher degree of care than the degree of care described in (i) hereto. The Custodian has satisfied itself that the degree of care to which RBC is subject under the RBC Custodian Agreement is no less than the degree of care to which the Custodian is subject under the Fund Custodian Agreements.

62. Pursuant to the Storage and Custody Agreement, the Mint has agreed to exercise (i) the same degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances or (ii) at least the same degree of care as it exercises with respect to its own property of a similar kind if this is a higher degree of care than the degree of care described in (i) hereto. RBC has satisfied itself that the degree of care to which the Mint is subject under the Storage and Custody Agreement is no less than the degree of care to which RBC is subject under the RBC Custodian Agreement.

63. The agreement pursuant to which the Mint appoints the Sub-Custodians to the Mint to act as sub-custodian includes a similar standard of care in respect of the obligations of the Sub-Custodians to the Mint as the standard of care set out for the Mint in the Storage and Custody Agreement. The Mint has satisfied itself that the degree of care to which each Sub-Custodian to the Mint is subject under such agreement is no less than the degree of care to which the Mint is subject under the Storage and Custody Agreement.

64. Upon the Mint sending a Receipt of Deposit to RBC, the Mint's liability to RBC will commence with respect to such bullion and the Mint will bear all risk of loss, destruction and/or damage to the bullion owned by the Fund in the Mint's custody (or in the custody of a Sub-Custodian to the Mint), subject to certain limitations generally based on events beyond the Mint's reasonable control, including, without limitation, acts or omissions or the failure to cooperate by RBC and/or third parties, fire or other casualty, act of God, strike or labour dispute, war or other violence, or any law, order or requirement of any governmental agency or authority. To the extent that the Mint is liable, the Mint has contractually agreed to replace or pay for lost, damaged or destroyed bullion in the Fund's account while in the Mint's or the applicable Sub-Custodian to the Mint's care, custody and control. Under the Storage and Custody Agreement, the Mint's liability terminates with respect to any bullion: (i) at the expiration of the 90 day prior notice of termination for convenience of the Storage and Custody Agreement, whether or not the Fund's bullion thereafter remains in the Mint's or the applicable Sub-Custodian to the Mint's possession and control; (ii) 90 days following the termination of the Storage and Custody Agreement for default, whether or not the Fund's bullion thereafter remains in the Mint's or the applicable Sub-Custodian to the Mint's possession and control; (iii) upon transfer of such bullion to a different customer's account at the Mint or the applicable Sub-Custodian to the Mint; or (iv) upon remittance of the bullion to RBC's carrier or representative in the event that the Mint returns the bullion for the reasons specified in the Storage and Custody Agreement.

65. Upon a Sub-Custodian to the Mint sending a Receipt of Deposit to the Mint, the Sub-Custodian to the Mint's liability to the Mint will commence with respect to such bullion and the Sub-Custodian to the Mint will bear all risk of loss, destruction and/or damage to the bullion owned by the Fund in the Sub-Custodian to the Mint's custody, subject to certain limitations generally based on events beyond the Sub-Custodian to the Mint's reasonable control, including, without limitation, acts or omissions or the failure to cooperate by the Mint and/or third parties, fire or other casualty, act of God, strike or labour dispute, war or other violence, or any law, order or requirement of any governmental agency or authority. To the extent that a Sub-Custodian to the Mint is liable, the Sub-Custodian to the Mint has contractually agreed to replace or pay for lost, damaged or destroyed bullion in the Fund's account while in the Sub-Custodian to the Mint's care, custody and control. Under the relevant Mint Sub-Custodian Agreement, the Sub-Custodian to the Mint's liability terminates with respect to any bullion: (i) at the expiration of the 90 day prior notice of termination for convenience of the relevant Mint Sub-Custodian Agreement, whether or not the Fund's bullion, thereafter remains in the Sub-Custodian to the Mint's possession and control; (ii) 90 days following the termination of the Mint Sub-Custodian Agreement for default, whether or not the Fund's bullion thereafter remains in the Sub-Custodian to the Mint's possession and control; (iii) upon transfer of such bullion to a different customer's account at the Sub-Custodian to the Mint; or (iv) upon remittance of the bullion to the Mint's carrier or representative in the event that the Sub-Custodian to the Mint returns the bullion for the reasons specified in the Mint Sub-Custodian Agreement.

66. Each Fund will not be responsible for any losses or damages to the Fund arising out of any breach of standard of care by the Custodian, RBC, the Mint or any applicable Sub-Custodian to the Mint.

67. The Custodian, RBC, the Mint and each Sub-Custodian to the Mint are not entitled to an indemnity from the Funds in the event that any of the Custodian, RBC, the Mint and each Sub-Custodian to the Mint breaches its standard of care.

68. Should RBC discover a physical loss, damage or destruction of a Fund's bullion in the Mint's custody, care and control, RBC must give written notice to the Mint within five business days after the discovery of any such loss, damage or destruction and will also give written notice to the Fund's manager and the Custodian. For any discrepancy in the quantity of bullion on an inventory statement, RBC must give the Mint written notice of the loss regarding such discrepancy within 60 days after the receipt of the inventory statement in which the discrepancy first appears and will also give written notice to the Fund's manager and the Custodian. The Mint will, at its discretion, as soon as practicable: (i) replace, or restore to its original state in the event of partial damage, as the case may be, the Fund's bullion that was lost, destroyed or damaged based on the advised weight and assay characteristics provided in the initial notice; (ii) compensate RBC for the monetary value of the bullion that was lost or destroyed based on the advised weight and assay characteristics provided in the initial notice and the market value of such bullion that was lost or destroyed as of the first trading date following the discovery by the Mint of the loss, damage or destruction or, if first discovered by RBC, the date of receipt by the Mint of the relevant notice of loss from RBC; or (iii) replace a portion of the lost or damaged bullion and compensate RBC for the monetary value of the remaining portion of the lost or damaged bullion based on the advised weight and assay characteristics provided in the initial notice and the market value of such bullion that was lost or destroyed as of the first trading date following the discovery by the Mint of the loss, damage or destruction or, if first discovered by RBC, the date of receipt by the Mint of the relevant notice of loss from RBC. If RBC fails to give such notice in accordance with the terms of the Storage and Custody Agreement, all claims against the Mint will be deemed to have been waived. In addition, no action, suit or other proceeding to recover any loss, damage or destruction may be brought against the Mint if a notice of loss, damage or destruction has been given in accordance with the terms of the Storage and Custody Agreement but an action, suit or proceeding has not been commenced within 24 months from the time of discovery of the loss, damage or destruction. The Mint will not be responsible for any special, incidental, consequential, indirect or punitive losses or damages (including lost profits or lost savings), whether or not the Mint had knowledge that such losses or damages might be incurred.

69. Should the Mint discover a physical loss, damage or destruction of a Fund's bullion in a Sub-Custodian to the Mint's custody, care and control, the Mint must give written notice to the Sub-Custodian to the Mint within five business days after the discovery of any such loss, damage or destruction and will also give written notice to RBC who will give written notice to the Fund's manager through the Custodian. For any discrepancy in the quantity of bullion on an inventory statement, the Mint must give the Sub-Custodian to the Mint written notice of the loss regarding such discrepancy within 60 days after the receipt of the inventory statement in which the discrepancy first appears and will also give written notice to RBC who will give written notice to the Fund's manager through the Custodian. The Sub-Custodian to the Mint will, at its discretion, as soon as practicable: (i) replace, or restore to its original state in the event of partial damage, as the case may be, the Fund's bullion that was lost, destroyed or damaged based on the advised weight and assay characteristics provided in the initial notice; (ii) compensate the Mint for the monetary value of the bullion that was lost or destroyed based on the advised weight and assay characteristics provided in the initial notice and the market value of such bullion that was lost or destroyed as of the first trading date following the discovery by the Sub-Custodian to the Mint of the loss, damage or destruction or, if first discovered by the Mint, the date of receipt by the Sub-Custodian to the Mint of the relevant notice of loss from the Mint; or (iii) replace a portion of the lost or damaged bullion and compensate the Mint for the monetary value of the remaining portion of the lost or damaged bullion based on the advised weight and assay characteristics provided in the initial notice and the market value of such bullion that was lost or destroyed as of the first trading date following the discovery by the Sub-Custodian to the Mint of the loss, damage or destruction or, if first discovered by the Mint, the date of receipt by the Sub-Custodian to the Mint of the relevant notice of loss from the Mint. If the Mint fails to give such notice in accordance with the terms of the relevant Mint Sub-Custodian Agreement, all claims against a Sub-Custodian to the Mint will be deemed to have been waived. In addition, no action, suit or other proceeding to recover any loss, damage or destruction may be brought against a Sub-Custodian to the Mint if a notice of loss, damage or destruction has been given in accordance with the terms of the relevant Mint Sub-Custodian Agreement but an action, suit or proceeding has not been commenced within 24 months from the time of discovery of the loss, damage or destruction. A Sub-Custodian to the Mint will not be responsible for any special, incidental, consequential, indirect or punitive losses or damages (including lost profits or lost savings), whether or not the Sub-Custodian to the Mint had knowledge that such losses or damages might be incurred.

Termination and Changes to the Custodial Arrangements

70. RBC may terminate the sub-custodial relationship with the Mint by giving written notice to the Mint of its intent to terminate the Storage and Custody Agreement if (i) the Mint is in default in carrying out any of its obligations under the Storage and Custody Agreement that is not cured within ten business days following RBC giving written notice to the Mint of such default; (ii) the Mint is dissolved or adjudged bankrupt, or a trustee, receiver or conservator of the Mint or

of its property is appointed, or an application for any of the foregoing is filed; or (iii) the Mint is in breach of any representation or warranty contained in the Storage and Custody Agreement. The obligations of the Mint with respect to each Fund include, but are not limited to, maintaining an inventory of the Fund's bullion stored with the Mint, providing a monthly inventory to RBC, maintaining the Fund's bullion physically segregated, allocated and specifically identifiable as the Fund's property under specifically identified account numbers as directed by RBC, and taking good care, custody and control of the Fund's bullion.

71. RBC believes that all of the obligations of the Mint as described in paragraph 68 are material and anticipates that it would terminate the Mint as sub-custodian if the Mint breaches any such obligations and does not cure such breach within ten business days of RBC giving written notice to the Mint of such breach. Prior to terminating the sub-custodial relationship with the Mint, RBC or the Fund will appoint a replacement sub-custodian for bullion that complies with the requirements under NI 81-102.

72. The Manager has determined that it would be in the best interests of each Fund to receive 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 provided that:

(a) The Mint meets the Shareholder Equity Threshold and, as noted on Schedule A, each Sub-Custodian to the Mint either: (i) meets the Shareholder Equity Threshold, or (ii) is a Guaranteed Sub-Custodian. Through RBC and the Mint, the Custodian will monitor each Sub-Custodian to the Mint on a regular basis (at least annually) to ensure that it either meets the Shareholder Equity Threshold or is a Guaranteed Sub-Custodian.

(b) The Custodian will provide to the Principal Regulator for the Funds on an annual basis beginning 60 days after the date upon which the Exemption Sought is first relied upon by the Funds, either (i) a current list of all such Funds that are relying on the Exemption Sought, or (ii) an update to the list of such Funds or confirmation that there has been no change to such list.

(c) The Funds and the Mint are limited to using the Mint or the Sub-Custodians to the Mint as sub-custodians for the Funds' bullion only, which will be held by the Mint or a Sub-Custodian to the Mint only in Canada, the United States, the United Kingdom, Germany, Switzerland, China (including Hong Kong), India or Singapore.

(d) RBC will obtain, at least annually, a report from the Mint, confirming that the Mint has, to the best of its ability, monitored the most recent audited financial statements of each Sub-Custodian to the Mint and is satisfied that the shareholders' equity of such entities is sufficient with what the Mint believes to be appropriate for an entity acting as custodian of physical bullion and, in any event at sufficient levels in order to meet the Mint's own internal requirements as though the Mint were seeking to deposit its own physical bullion with such Sub-Custodians to the Mint.

(e) In respect of the periodic compliance reports to be prepared by the Custodian pursuant to paragraphs 6.7(1)(b), 6.7(1)(c)(ii) and 6.7(2)(c) of NI 81-102, as such paragraphs will not be applicable given the nature of the relief granted herein, the Custodian shall include a statement in such reports regarding the completion of RBC's review process for the Mint and the Mint's review process for the Sub-Custodians of the Mint and that the Custodian is of the view that the Mint and the Sub-Custodians to the Mint continue to be appropriate sub-custodians to hold the Funds' bullion in, and outside of, Canada.

(f) Prior to a Fund relying on this Decision, the Custodian provides to the Fund:

  (i) a copy of this Decision;

  (ii) a disclosure statement informing the Fund of the implications of this Decision; and

  (iii) a form of acknowledgment of the matters referred to in paragraph (g) below, to be signed and returned by the Fund to the Custodian.

(g) A Fund and its Manager seeking to rely on this Decision will, prior to doing so:

  (i) acknowledge receipt of a copy of this Decision providing the Exemption Sought;

(ii) appoint the Custodian as its custodian under NI 81-102;

(iii) consent to the Custodian providing to staff of the Principal Regulator for the Fund on an annual basis the name of the Fund so long as it relies on this Decision; and

(iv) deliver to the Custodian a signed acknowledgement and agreement binding the Fund to the foregoing.

"Vera Nunes"
Acting Director, Investment Funds and Structured Products Branch
Ontario Securities Commission

SCHEDULE "A"

Sub-Custodians to the Mint

Names of Parent Companies	Names of Subsidiaries Operating the Vaults in Question	Location of Vault Facilities
Brink's Global Services International Inc.[1]	Brink's Canada Ltd. [2]	Halifax, Canada Montreal, Canada Toronto, Canada Calgary, Canada Vancouver, Canada
	Brink's Global Services USA Inc. [2]	New York, USA Los Angeles, USA
	Brink's U.S., a Division of Brink's Inc. [2]	Dallas, USA
	Brink's U.K. Ltd. [2]	London, England
	Brink's Global Services Deutschland GmbH [2]	Frankfurt, Germany
	Brink's Switzerland Ltd. [2]	Zurich, Switzerland
	Brink's Hong Kong Ltd. [2]	Hong Kong, China
	Brink's Far East Ltd. [2]	Shanghai, China
	Brink's India Private Ltd. [2]	Mumbai, India
	Brink's Singapore Pte Ltd. [2]	Singapore, Singapore
Dillon Gage Inc.[1]	International Depository Services of Canada Inc. [3]	Toronto, Canada
Loomis AB [1]	Loomis International (US) Inc. [4]	Inwood, New York, USA Los Angeles, USA Miami, USA
	Loomis International (UK) Ltd. [4]	Shepperton (London), England
	Loomis International (DE) GmbH [4]	Frankfurt, Germany
	Loomis International (CH) AG [4]	Zurich, Switzerland
	Loomis International (HK) Ltd. [4]	Hong Kong, China

[1] Meets the Shareholder Equity Threshold requirement

[2] Does not meet the Shareholder Equity Threshold requirement and is a Guaranteed Sub-Custodian with guarantee provided by Brink's Global Services International Inc.

[3] Does not meet the Shareholder Equity Threshold requirement and is a Guaranteed Sub-Custodian with guarantee provided by Dillon Gage Inc.

[4] Does not meet the Shareholder Equity Threshold requirement and is a Guaranteed Sub-Custodian with guarantee provided by Loomis AB.

2.1.12 MaRS VX

Headnote

Application by not-for-profit entity (the Filer) for an interim extension order – Filer operates an online portal bringing together accredited investors with issuers that aim to solve social or environmental challenges – Filer registered as restricted dealer in Ontario – previous decision granted Filer relief from certain know-your-client (KYC) and suitability requirements contained in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103) subject to certain conditions – interim extension order granted.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System (MI 11-102).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.2(2)(c), 13.3, and Part 15.

December 17, 2015

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

AND

IN THE MATTER OF
MARS VX
(the Filer)

DECISION

Background

The Filer has made an application (the **Application**) to the Director (the **Director**) in the Jurisdiction for a decision, pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), to vary a previous decision under the securities legislation of the Jurisdiction of the regulator made under section 15.1 of NI 31-103 entitled *In the Matter of MaRS VX* dated June 17, 2013 (the **Original Decision**) and varied on March 6, 2014 (the **March 2014 Amending Decision**) and as further varied on June 17, 2015 (the **June 2015 Amending Decision**, and collectively with the Original Decision and the March 2014 Amending Decision, the **Previous Decision**) in accordance with the Requested Interim Relief (as described below).

Interpretation

Defined terms contained in National Instrument 14-101 Definitions or in the Previous Decision have the same meaning in this decision unless they are otherwise defined in this decision (the **Decision**).

Representations

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

1. The Filer is a not-for-profit entity and is a wholly owned subsidiary of MaRS Discovery District (**MaRS**).

2. MaRS is a registered charity and a not-for-profit entity without share capital created by letters patent under the *Canada Corporations Act*. It carries on its operations without pecuniary gain. Its head office is located in Toronto, Ontario.

3. The Filer's current objective is to facilitate impact investing by bringing together through an online platform (the **Platform**) accredited investors (as such term is defined in section 1.1 of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) and in subsection 73.3(1) of the *Securities Act* (Ontario) (the **Act**)) in Ontario and Quebec and issuers that are social impact issuers and/or environmental impact issuers in Ontario and Quebec aiming to solve social or environmental challenges in these jurisdictions.

4. The Filer is registered as a restricted dealer in Ontario and in Quebec.

5. Under the Previous Decisions, the Filer was granted relief from certain requirements under NI 31-103 that would otherwise be applicable to the Filer in connection with the operation of the Platform, subject to certain terms and conditions specified in the Previous Decision.

6. In the March 2014 Amending Decision, the Filer was also granted relief to amend the Original Decision in order to be able to rely on the passport system described in Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) in the province of Quebec, all as described in the March 2014 Amending Decision.

7. A condition in the Previous Decision is that the relief is subject to a sunset clause which expires on December 17, 2015.

8. The Filer carries on a very unique business with a special focus on social impact issuers and environmental impact issuers, and is still in the early stages of development, having operated the Platform for less than two years. Based on a compliance review, Ontario Securities Commission (**Commission**) staff identified deficiencies and areas for improvement with the Filer's compliance with Ontario securities laws. On July 17, 2015, the Filer consented to terms and conditions imposed by the Director, which included that the Filer retain an independent consultant to prepare and assist the Filer to implement a plan to strengthen their compliance system.

9. Commission staff has approved the compliance plan and the Filer is in the process of implementing the Compliance Plan.

10. The Filer is cooperating with Commission staff to address all deficiencies identified by Commission staff and strengthen its compliance system.

11. The Filer wishes for the relief granted in the Previous Decision to be extended to September 30, 2016 (the **Requested Interim Relief**).

12. The Filer will continue to implement procedures to ensure that it will not be in default of securities legislation in respect of the registerable activity in which the Filer engages while this Decision is effective.

13. The Filer also wishes to rely on the passport system described in Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) in the province of Quebec. Upon the granting of the Requested Interim Relief, the Filer intends to file a notice pursuant to section 4.7(1) of MI 11-102 to passport this Decision into Quebec.

14. This Decision is based on the same representations made by the Filer in the Previous Decision, to the extent not amended by this Decision, and which remain true and complete, except in respect of those deficiencies identified by Commission staff and being addressed in the Compliance Plan and in the terms and conditions that were imposed on the Filer's registration.

Decision

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

It is the decision of the Director that the Requested Interim Relief is granted provided that:

1. The Filer complies with all of the registration requirements of an exempt market dealer under the Act and NI 31-103, subject to paragraph 2 below, with the Compliance Plan, and with the terms and conditions imposed by the Director;

2. The Filer is exempt from the know-your-client and suitability requirements in paragraph 13.2(2)(c) and in section 13.3 of NI 31-103 on the basis that the following terms and conditions will apply to investors that have access to the Private Portal:

   (a) if the investor is a permitted client that has waived the know-your-client and suitability requirements of paragraph 13.2(2)(c) and section 13.3 of NI 31-103 under subsections 13.2(6) and 13.3(4) of NI 31-103, respectively, there will be no maximum amount that such an investor may subscribe for on the Private Portal;

   (b) if the investor is either: (i) an accredited investor that is not a permitted client; or (ii) a permitted client that has not waived the know-your-client and suitability requirements of paragraph 13.2(2)(c) and section 13.3 of NI 31-103, the investor shall be limited to investing a maximum of $25,000 in a single offering on the Private Portal in a calendar year and a maximum of $50,000 in total in all offerings on the Private Portal in a calendar year; and

3. The Filer will continue to abide by the terms and conditions imposed on the Filer's registration.

4. Paragraph 35 of the Previous Decision be deleted and replaced with the following new paragraph:

   The Filer will not sell its own securities or the securities of any related issuers.

5. The period of reporting to Commission staff as set out in paragraph 45 of the Previous Decision will be every second month (to be submitted within 10 days of the end of every second month) and paragraphs 45(a) and (e) of the Previous Decision be deleted and replaced by the following new paragraphs (a) and (e):

   (a) the investment transactions made in the two-month period by investors that have access to the Private Portal in offerings of issuers on the Private Portal, including the following information for each investor who has invested in an investment transaction:

      (i) the name of investor;

      (ii) the name of the issuer;

      (iii) the date the investment in the issuer was purchased by the investor;

      (iv) the type of securities purchased by the investor;

      (v) the dollar amount of the investment in the issuer by the investor; and

      (vi) the total dollar amount invested by the investor in all offerings on the Private Portal (including the investment transaction(s) reported upon in the two month period) in the calendar year;

   (e) all investors who have been granted access to the Private Portal or whose access to the portal has been revoked during the two month period, including for each investor:

      (i) the name of the investor;

      (ii) the type of accredited investor (e.g., permitted clients (as defined in section 1.1 of NI 31-103) and non-permitted clients, and the clause they are relying on in section 1.1 of NI 45-106 or in subsection 73.3(1) of the Act that qualified them as an accredited investor), along with a reference of the documentation that supports such classification;

      (ii) the date the investor was granted access to the Private Portal, if applicable; and

      (iv) where the investor was initially granted access but access was subsequently revoked, the date of the revocation and the reason for the denial of access, if applicable.

This Decision shall expire on the earlier of:

(a) September 30, 2016; and

(b) Sixty (60) days after any material changes in the Filer's business, operations or capital.

This Decision may be amended by the Director from time to time upon prior written notice to the Filer.

"Debra Foubert"
Director, Compliance & Registrant Regulation
Ontario Securities Commission

2.1.13 Gold Canyon Resources Inc. – s. 1(10)(a)(ii)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer deemed to no longer 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).

December 21st, 2015

Gold Canyon Resources Inc.
1805 - 925 West Georgia Street
Vancouver, British Columbia
V6C 3L2

Re: Gold Canyon Resources Inc. (the Applicant) – Application for a Decision under the Securities Legislation of Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the Jurisdictions) that the Applicant is not a Reporting Issuer

The Applicant has applied to the local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions for a decision under the securities legislation (the Legislation) of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

(a) the outstanding securities of the Applicant, 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;

(b) no securities of the Applicant, 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;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is not a reporting issuer.

"Sonny Randhawa"
Manager, Corporate Finance
Ontario Securities Commission

2.2 Orders

2.2.1 Future Solar Developments Inc. et al. – ss. 127, 127.1

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
FUTURE SOLAR DEVELOPMENTS INC.,
CENITH ENERGY CORPORATION,
CENITH AIR INC.,
ANGEL IMMIGRATION INC. and
XUNDONG QIN also known as SAM QIN

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS:

1. on March 26, 2015, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") on March 26, 2015, to consider whether it is in the public interest to make certain orders against Future Solar Developments Inc. ("FSD"), Cenith Energy Corporation ("Cenith Energy"), Cenith Air Inc. ("Cenith Air"), Angel Immigration Inc. ("Angel Immigration") (together, the "Corporate Respondents") and Xundong Qin, also known as Sam Qin ("Qin") (together with the Corporate Respondents, the "Respondents");

2. the Notice of Hearing set April 15, 2015 as the hearing date in this matter;

3. on April 15, 2015, Staff and counsel for the Respondents appeared and made submissions;

4. the Commission ordered that the matter be adjourned to a confidential pre-hearing conference on June 8, 2015 at 3:00 p.m.;

5. on June 8, 2015, the Commission held a confidential pre-hearing conference and counsel for Staff and counsel for the Respondents attended the hearing;

6. the Commission ordered that:

    1. the Second Appearance in this matter be held on September 9, 2015 at 10:00 a.m.; and

    2. that Staff shall provide to the Respondents, no later than five (5) days before the Second Appearance, their witness lists and indicate any intent to call an expert witness, including the name of the expert witness and the issue on when the expert will be giving evidence;

7. on September 9, 2015, the Commission held a Second Appearance and counsel for Staff and Qin, personally and on behalf of Cenith Energy, Cenith Air and Angel Immigration, appeared and made submissions;

8. on September 9, 2015, no one appeared on behalf of FSD;

9. the Commission ordered that:

    1. the Third Appearance in this matter be held on November 9, 2015 at 10:00 a.m. or on such other date as provided by the Office of the Secretary and agreed to by the parties;

    2. Staff shall provide to the Respondent their witness summaries by September 18, 2015; and

    3. the Respondents shall provide to Staff by October 21, 2015 their witness lists and witness summaries and indicate any intent to call an expert witness, including the name of the expert witness and the issue on which the expert will be giving evidence.

10. a request was made to the Office of the Secretary to reschedule the Third Appearance in this matter and the parties agreed to such other date and time as provided by the Office of the Secretary;

11. on October 27, 2015, the Commission ordered that the Third Appearance in this matter scheduled for November 9, 2015 at 10:00 a.m. is vacated and that the Third Appearance in this matter be held on October 30, 2015 at 10:00 a.m.;

12. the Commission held a hearing on October 30, 2015 and counsel for Staff and counsel from the Litigation Assistance Program ("LAP") attended on behalf of the Respondents;

13. on October 30, 2015, Qin was not in attendance at the hearing;

14. on October 30, 2015, the Commission ordered that the Third Appearance in this matter is adjourned to December 2, 2015 at 9:30 a.m.;

15. the Commission held a hearing on December 2, 2015, and counsel for Staff and LAP counsel attended on behalf of the Respondents;

16. the Commission considered the submissions of Staff and the submissions of LAP counsel for the Respondents; and

17. the Commission is of the opinion that it is in the public interest to make this order.

I**T IS ORDERED** that:

1. the Respondents shall provide to Staff their witness list by December 18, 2015;

2. the Respondents shall provide to Staff their witness summaries by January 11, 2016;

3. the parties shall deliver to every other party copies of documents which they intend to produce or enter as evidence at the hearing on the merits in this matter (the "Hearing Briefs") by no later than February 8, 2016;

4. the parties shall file with the Registrar copies of indices to their Hearing Briefs by no later than February 12, 2016;

5. the final interlocutory appearance shall be held on February 22, 2016 at 10:00 a.m.; and

6. the hearing on the merits in this matter shall commence on March 21, 2016 at 10:00 a.m. and continue thereafter on March 23, 24, 28 29, 30, 31 and April 1, 4 and 12, 2016 and on such further dates as agreed to by the parties and set by the Office of the Secretary.

DATED at Toronto this 2nd day of December, 2015.

"Mary Condon"

2.2.2 Hussain Dhala – 127(1), 127(10)

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
HUSSAIN DHALA

ORDER
(Subsections 127(1) and 127(10) of the Securities Act)

WHEREAS:

1. on November 17, 2015, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Hussain Dhala ("Dhala");

2. on November 16, 2015, Staff of the Commission ("Staff") filed a Statement of Allegations in respect of the same matter;

3. on December 16, 2015, Staff appeared before the Commission and brought an application to convert the matter to a written hearing, in accordance with Rule 11.5 of the Commission's *Rules of Procedure* (2014), 37 OSCB 4168, and subsection 5.1(1) of the *Statutory Power Procedures Act*, R.S.O. 1990, c. S.22, as amended;

4. on December 16, 2015, Staff made submissions and filed an affidavit of service of Lee Crann sworn December 4, 2015, indicating steps taken by Staff to serve Dhala with the Notice of Hearing, Statement of Allegations and Staff's disclosure materials;

5. Dhala did not appear or make submissions, although properly served;

6. the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED THAT:

(a) Staff's application to proceed by way of written hearing is granted;

(b) Staff's materials in respect of the written hearing shall be served and filed no later than December 29, 2015;

(c) Dhala's responding materials, if any, shall be served and filed no later than January 26, 2016; and

(d) Staff's reply materials, if any, shall be served and filed no later than February 9, 2016.

DATED at Toronto this 16th day of December, 2015.

"Janet Leiper"

2.2.3 Fred Louis Sebastian – ss. 127(1), 127(10)

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
FRED LOUIS SEBASTIAN

ORDER
(Subsections 127(1) and 127(10) of the Securities Act)

WHEREAS:

1. on November 17, 2015, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Fred Louis Sebastian ("Sebastian");

2. on November 16, 2015, Staff of the Commission ("Staff") filed a Statement of Allegations in respect of the same matter;

3. on December 16, 2015, Staff appeared before the Commission and brought an application to convert the matter to a written hearing, in accordance with Rule 11.5 of the Commission's *Rules of Procedure* (2014), 37 OSCB 4168, and subsection 5.1(1) of the *Statutory Power Procedures Act*, R.S.O. 1990, c. S.22, as amended;

4. on December 16, 2015, Staff made submissions and filed an affidavit of service of Lee Crann sworn December 9, 2015, indicating steps taken by Staff to serve Sebastian with the Notice of Hearing, Statement of Allegations and Staff's disclosure materials, and filed an email exchange between Lee Crann and Sebastian dated November 18, 2015 and December 15, 2015;

5. Sebastian did not appear or make submissions, although properly served;

6. the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED THAT:

(a) Staff's application to proceed by way of written hearing is granted;

(b) Staff's materials in respect of the written hearing shall be served and filed no later than December 29, 2015;

(c) Sebastian's responding materials, if any, shall be served and filed no later than January 26, 2016; and

(d) Staff's reply materials, if any, shall be served and filed no later than February 9, 2016.

DATED at Toronto this 16th day of December, 2015.

"Janet Leiper"

2.2.4 Neil Suresh Chandran et al. – ss. 127(1), 127(10)

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
NEIL SURESH CHANDRAN,
ENERGY TV INC.,
CHANDRAN HOLDING MEDIA, INC.,
also known as CHANDRAN HOLDINGS & MEDIA INC.,
and NEIL SURESH CHANDRAN
doing business as CHANDRAN MEDIA

ORDER
(Subsections 127(1) and 127(10) of the Securities Act)

WHEREAS:

1. on November 17, 2015, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Neil Suresh Chandran ("Chandran"), Energy TV Inc., Chandran Holding Media, Inc., also known as Chandran Holdings & Media Inc., and Chandran doing business as Chandra Media (collectively, the "Respondents");

2. on November 16, 2015, Staff of the Commission ("Staff") filed a Statement of Allegations in respect of the same matter;

3. on December 16, 2015, Staff appeared before the Commission in respect of Staff's application to convert the matter to a written hearing, in accordance with Rule 11.5 of the Commission's *Rules of Procedure* (2014), 37 OSCB 4168, and subsection 5.1(1) of the *Statutory Power Procedures Act*, R.S.O. 1990, c. S.22, as amended;

4. on December 16, 2015, Staff made submissions and filed an affidavit of service of Lee Crann sworn December 9, 2015, and a supplementary affidavit of service of Lee Crann sworn December 14, 2015, indicating steps taken by Staff to serve the Respondents with the Notice of Hearing, Statement of Allegations and Staff's disclosure materials, and filed an email exchange between Lee Crann and Chandran dated December 14, 2015;

5. the Respondents did not appear or make submissions, although properly served;

6. Staff advised that Chandran had requested an adjournment to retain counsel, and Staff did not object to Chandran's request;

7. the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED THAT:

(a) the hearing in this matter is adjourned to January 11, 2016, at 10:00 a.m.

DATED at Toronto this 16th day of December, 2015.

"Janet Leiper"

2.2.5 Polo Resources Limited

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application by a reporting issuer for an order that it is not a reporting issuer in Ontario – based on diligent inquiry, residents of Canada (i) do not directly or indirectly beneficially own more than 2% of each class or series of outstanding securities of the issuer worldwide, and (ii) do not directly or indirectly comprise more than 2% of the total number of securityholders of the issuer worldwide – issuer is subject to United Kingdom securities law and requirements of the Alternative Investment Market of the London Stock Exchange – issuer has provided notice through a press release that it has submitted an application to cease to be a reporting issuer in Ontario.

Statutes Cited

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

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

AND

IN THE MATTER OF
POLO RESOURCES LIMITED
(THE APPLICANT)

ORDER

UPON the Director having received an application from the Applicant for an order under subparagraph 1(10)(a)(ii) of the Act that the Applicant is not a reporting issuer in Ontario (the **Requested Order**);

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the **Commission**);

AND UPON the Applicant representing to the Commission as follows:

1. The Applicant is a company established under the *BVI Business Companies Act, 2004* in the British Virgin Islands with registered number 1406187.

2. The Applicant's registered office is located at Craigmuir Chambers, Road Town, Tortola VG 1110, British Virgin Islands.

3. The Applicant is an investment company focused on natural resources and mine development.

4. The Applicant does not have any operations, employees or offices in Canada.

5. The Applicant's authorized share capital consists of an unlimited number of ordinary shares without par value (the **Ordinary Shares**). As of February 9, 2015, the Applicant had 276,940,309 outstanding Ordinary Shares. The Applicant has no other securities that are issued and outstanding, including any debt securities.

6. The primary market for the Ordinary Shares is the Alternative Investment Market of the London Stock Exchange (**AIM**), where the Ordinary Shares have been listed under the symbol "POL" since September 4, 2007. The Ordinary Shares were also listed on the Bermuda Stock Exchange on April 4, 2013 and were delisted from that exchange on May 23, 2014.

7. The Ordinary Shares were conditionally approved for listing on the Toronto Stock Exchange (the **TSX**) on March 9, 2010 and began trading on the TSX on April 1, 2010, which resulted in the Applicant becoming a reporting issuer in Ontario.

8. On April 5, 2013, the Ordinary Shares were voluntarily delisted from the TSX.

9. The Applicant is not a reporting issuer in any other jurisdiction in Canada other than Ontario.

10. The Applicant is not in default of securities legislation in Ontario.

11. The Applicant is not in default of any reporting or other requirement of AIM.

12. Residents of Canada do not (i) directly or indirectly, beneficially own more than 2% of each class or series of outstanding securities of the Applicant worldwide, and (ii) directly or indirectly comprise more than 2% of the total number of securityholders of the Applicant worldwide. The due diligence conducted by the Applicant in support of the foregoing representation is as follows:

    a. The Applicant obtained a report dated January 14, 2014, as updated on July 15, 2014 and February 9, 2015, prepared by RD:IR (Richard Davies Investor Relations Limited) (as updated, the **RD:IR Report**), which provided a deep analysis of the share register using a record date of February 9, 2015 provided to RD:IR by Computershare Investor Services PLC (**Computershare UK**), the Applicant's transfer agent, regarding the holdings of registered nominee/brokers and fund managers (**Intermediaries**) who hold Ordinary Shares to determine the residency of the beneficial holders of the Ordinary Shares held through Intermediaries.

    b. The RD:IR Report identified 181 Intermediaries, and all of them were queried with respect to beneficial ownership. Where an Intermediary either failed to respond at all or responded only so as to refuse to provide information, RD:IR followed up with a series of emails and telephone calls and requested that if the Intermediary was unwilling to disclose beneficial ownership, whether they would nonetheless confirm that no beneficial owners were Canadian residents.

    c. 12 of the Intermediaries who were queried confirmed that they had no underlying Canadian holders of Ordinary Shares but refused to confirm the overall number of beneficial owners in their accounts.

    d. 14 Intermediaries failed to respond to the queries at all. 19 Intermediaries responded to the queries but only so as to refuse any information. These 33 Intermediaries (the **Unaccounted Intermediaries**) held 12,336,612 Ordinary Shares (the **Unaccounted Shares**). The RD:IR Report identified that residents of Canada beneficially own an aggregate of 803,793 Ordinary Shares, representing approximately 0.30% of the Applicant's issued and outstanding Ordinary Shares, excluding the Unaccounted Shares (being 276,940,309 - 12,336,612 = 264,603,697 Ordinary Shares). The Applicant submits that it is unlikely that the Unaccounted Intermediaries hold on behalf of Canadian beneficial owners in any significant number and has no reason to suspect that Canadian residents hold greater than 0.30% of the Unaccounted Shares, given that none of the Unaccounted Intermediaries are based in Canada and there is no identifiable nexus between the Unaccounted Intermediaries and Canadian residents.

    e. The RD:IR Report identified 8,792 beneficial holders, 60 of which are residents of Canada representing 0.68% of the total number of beneficial holders worldwide identified by the RD:IR Report. Assuming that 0.30% of the Unaccounted Shares (being 37,010 Ordinary Shares) are held by Canadian residents, and each Canadian resident holds 13,397 Ordinary Shares (being the average number of Ordinary Shares held by a Canadian resident based on the available information), this would result in 3 additional Canadian beneficial holders, accounting for a total of 0.72% of the total number of beneficial holders worldwide identified by the RD:IR Report.

13. In the past 12 months, the Applicant has not taken steps to create a market in Canada for the Ordinary Shares and, in particular, never offered securities to the public in Ontario or in any other jurisdiction in Canada by way of a prospectus offering. The Applicant has no current intention to distribute any securities to the public in Canada nor does it intend to seek financing by way of a public offering of its securities in Canada.

14. None of the Applicant's securities are listed, traded or quoted on a marketplace in Canada as defined in National Instrument 21-101 *Marketplace Operation* and the Applicant does not intend to have its securities listed, traded or quoted on such a marketplace in Canada. The Applicant only attracted a *de minimis* number of Canadian investors and the daily average volume of trading of the Ordinary Shares in the 12 months prior to delisting from the TSX was approximately 747 shares. In contrast, the average daily volume on AIM for the same period represented approximately 683,133 shares. Accordingly, the TSX average daily volume was approximately 0.11% of the AIM average daily volume when the Ordinary Shares were listed in Canada.

15. The Applicant has provided advance notice to Canadian-resident securityholders in a press release dated June 25, 2015 that it has applied to the Commission for a decision that it is not a reporting issuer in Ontario, and if that decision is made, the Applicant will no longer be a reporting issuer in any jurisdiction in Canada.

16. The Applicant files continuous disclosure reports under U.K. securities laws and follows the exchange requirements of AIM.

17. The Applicant qualifies as a "Designated Foreign Issuer" under National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (**NI 71-102**) and has relied on and complied with the exemptions from Canadian disclosure requirements afforded to Designated Foreign Issuers under Part 5 of NI 71-102.

18. The Applicant has provided an undertaking in favour of the Commission that it will concurrently deliver to its Canadian securityholders all disclosure it would be required under U.K. securities law or exchange requirements to deliver to U.K. resident securityholders, in the same manner and at the same time as delivered to its U.K. resident securityholders.

19. The Applicant cannot rely on the "simplified procedure" described in CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* because it has more than 50 security holders in total worldwide and the Ordinary Shares are listed on AIM.

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

IT IS HEREBY ORDERED pursuant to subparagraph 1(10)(a)(ii) of the Act that, for the purposes of Ontario securities law, the Applicant is not a reporting issuer.

DATED this 16th day of December, 2015.

"Anne Marie Ryan"
Commissioner
Ontario Securities Commission

"Sarah B. Kavanagh"
Commissioner
Ontario Securities Commission

2.2.6 Toronto Standard Condominium Corporation #1703 – s. 144

Headnote

Securities Act (Ontario) – Application to vary a decision of the Commission – Issuance of trust interests pursuant to a reorganization completed for tax purposes, and subsequent resales of trust interests in connection with the resale of corresponding residential condominium units included in a rental pool program, are not subject to section 25 or 53 provided that prospective purchasers receive certain disclosure prior to entering into an agreement of purchase and sale.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, as am., ss. 25, 53, 74(1), 144.
Condominium Act, R.S.O. 1990, as am.

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

AND

IN THE MATTER OF
TORONTO STANDARD CONDOMINIUM CORPORATION #1703

ORDER
(Section 144 of the Act)

WHEREAS the Ontario Securities Commission granted an exemption order on November 22, 2004 (the **Original Exemption Order**), pursuant to subsection 74(1) of the Act, that the sale by 1 King West Inc. (the **Original Applicant**) of condominium units within a condominium project built by the Original Applicant on a site located at 1-5 King Street West, Toronto, Ontario, will not be subject to sections 25 and 53 of the Act;

AND WHEREAS the Ontario Securities Commission granted a variation order on May 28, 2013 (the **Amended Exemption Order**), pursuant to section 144 of the Act, amending the Original Exemption Order such that the resale of Condo Units (as defined below) at 1 King West will not be subject to sections 25 and 53 of the Act;

AND WHEREAS Toronto Standard Condominium Corporation #1703 (**TSCC 1703** or the **Applicant**) has filed an application pursuant to section 144 of the Act for a variation of the Amended Exemption Order such that the issuance of the Trust Interests (as defined below) to holders of Condo Units (as defined below), and any subsequent transfers thereof in connection with the transfer of a corresponding Condo Unit, will not be subject to sections 25 and 53 of the Act (the **Variation Sought**);

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant was created by a Declaration under the *Condominium Act 1998* (Ontario) (the **Condominium Act**) registered on September 9, 2005.

2. The Applicant is not a reporting issuer under the Act nor under any other securities legislation in Canada and has no present intention of becoming a reporting issuer under the Act.

3. The Applicant acts on behalf of the owners of 575 condominium units (the **Condo Units**) at 1 King Street West, Toronto, Ontario (the **Lands**); manages the common elements of the condominium corporation; and it controls the activities of Toronto Standard Condominium Corporation #1726 (**TSCC 1726**) and its wholly-owned subsidiary, Events at One King West Ltd. (**Events**), which in turn manages the Hotel Program (as defined below) and the food-and-beverage, housekeeping, valet parking, and other services (collectively, the **Hotel Services**) that, in combination, function in the manner of a conventional hotel carrying on business as One King West Hotel and Residence. Events owns the non-real property assets relating to the Hotel Services and the revenues and net income arising therefrom.

4. The Applicant currently owns all of the voting common shares of Events and effective January 1, 2016, shall reorganize Events (the **Reorganization**) by creating a new class of non-voting preferred shares (the **Preferred Shares**), which Preferred Shares shall be distributed to a newly formed trust (the **Trust**). The Preferred Shares shall have a discretionary entitlement to non-cumulative dividends up to the entire annual net income and any retained earnings of

Events. In connection with the Reorganization, a separate class of "frozen" non-voting shares of Events with a discretionary dividend entitlement will be issued to TSCC 1703 for tax purposes.

5. Following the Reorganization, each holder of Condo Units from time to time shall be deemed to hold an interest in the Trust (a **Trust Interest**) as the beneficiaries thereof. For greater certainty, the Trust Interests shall not be alienable from the Condo Units to which they relate. The trustees of the Trust shall be comprised of one director of TSCC 1703 and two lawyers from the legal counsel to TSCC 1703, in accordance with the terms of the trust indenture governing the Trust (the **Indenture**), and the holders of Trust Interests shall not have the right to directly appoint trustees or otherwise manage the affairs of the Trust.

6. The net income generated by Events from the Hotel Services has been historically accrued to the benefit of TSCC 1703. Following the Reorganization, any net income generated by Events from the Hotel Services that is distributed as a dividend on the Preferred Shares will continue to accrue to TSCC 1703, but indirectly, as such amounts will be distributed to the Trust and then automatically, pursuant to the terms of the Indenture, be paid to TSCC 1703 on behalf of the Trust Interest holders.

7. The majority of the Lands are occupied by the Condo Units. The remaining portions are occupied by non-residential condominium units of TSCC 1726, common elements of the condominium corporations TSCC 1703 and TSCC 1726 and freehold spaces that will be owned by Events following the Reorganization.

8. Each owner is entitled to use a Condo Unit for any of the following purposes: personal residence, residential tenancy for a minimum lease period of one year, business activities as permitted by the City of Toronto by-laws, or, if it is a Condo Unit that is properly furnished, finished, and equipped, participation in short-term rentals (the **Hotel Program**) through the terms of the optional rental management agreement (the **Rental Management Agreement**) with Events.

9. In accordance with the Condominium Act, each owner of a Condo Unit is responsible for expenses, such as real property taxes, that are directly attributable to the Condo Unit and is also responsible for the Condo Unit's proportionate share of utilities, maintenance, and various expenses related to the common property of the condominium corporation, which are collected by TSCC 1703 monthly (what are commonly known as "condo fees").

10. Each owner of a Condo Unit is optionally entitled to enroll such unit in the Hotel Program, provided that the furnishings, finishes, and equipment are at least equivalent to the then-current standard for units in the program as determined by Events, and that the owner signs the then-current Rental Management Agreement.

11. For units that participate in the Hotel Program, Events is entitled, but not obligated, to pay condo fees on behalf of unit owners; these amounts are deducted from the Hotel Program's distributions, which are paid monthly to Participating Suite Owners (**PSOs**). Events provides, at the expense of the Hotel Program, insurance to cover liability and all perils at a level that will cover replacement of the unit's contents to the current standard of furnishings, finishes, and equipment.

12. Revenues derived from the short-term rental of an owner's unit in the Hotel Program are pooled and then allocated on the basis of unit type and the number of days during the calculation period that the applicable unit is enrolled. Each PSO is then paid the unit's share of aggregate revenue, less the actual expenses, the contributions to the replacement reserve fund, and a fixed management fee per participating unit. Net revenues are calculated and paid on a monthly basis. Events is entitled to a bonus of 5% (five per cent) of the difference between revenues and expenses on an annual basis, in addition to a monthly fee that recovers costs of management from the PSOs.

13. The Rental Management Agreement obligates Events to send to each PSO:

    (a) audited annual financial statements for the rental program that have been prepared in accordance with Canadian generally accepted accounting principles, certified and delivered with the applicable provisions of the Act and National Instrument 51-102 *Continuous Disclosure Obligations* as if the Hotel Program was a reporting issuer for the purposes of the Act; and

    (b) monthly unaudited financial reports for the Hotel Program, along with the management's discussion and analysis.

14. In addition, TSCC 1703 sends the following materials to each Condo Unit owner:

    (a) audited annual financial statements for Events that have been prepared in accordance with Canadian generally accepted accounting principles, certified and delivered with the applicable provisions of the Act and National Instrument 51-102 *Continuous Disclosure Obligations* as if Events was a reporting issuer for the purposes of the Act; and

(b) monthly unaudited financial reports for Events, along with the management's discussion and analysis.

15. The Condominium Act imposes strict requirements on the condominium corporation to make full disclosure to all owners of its revenues, expenses, long-term liabilities, and budgets. Such disclosure is also made to prospective purchasers by way of the statutorily-defined Status Certificate.

16. A majority (320 of 575, as at the date hereof) of the Condo Units in the building currently participate in the Hotel Program, and it is the policy of Events to seek to maintain or increase the number of participating Condo Units.

17. As a provision of the condominium's statute-mandated Declaration, no owner of any Condo Unit is entitled to rent such unit on a short-term basis other than through the Hotel Program. Long-term leases for a minimum of one year, including the identity of all residents, must be formally registered with TSCC 1703. Any violations of this policy are strictly prohibited, and are subject to rigorous enforcement including the denial of access to the unit by unregistered tenants.

18. Both before and after the Reorganization, control of the entire property rests with the democratically-elected board of directors of TSCC 1703.

19. Prospective purchasers of Condo Units are not provided with any form of rental, cash flow, or deficiency guarantees or any other form of financial commitment or projection, by or on behalf of the Applicant respecting the Hotel Program, the Hotel Services, or the sale of Condo Units, other than:

(a) examples of financial calculations solely for the purpose of better explaining to prospective purchasers how hotel pooling proceeds are calculated; and

(b) the annual budget for TSCC 1703 and Events.

20. Every owner of a Condo Unit of TSCC 1703 offered for sale shall, regardless of the current usage of the unit, provide to every prospective purchaser copies of the following information, which shall be available at no cost from TSCC 1703:

(a) this Order;

(b) an explanation, in plain English, of the Declaration's restrictions on the use of units within TSCC 1703, particularly the prohibition of short-term rentals, along with the rights and obligations of participation in the optional Hotel Program;

(c) the Indenture;

(d) an example of financial calculations solely for the purpose of better explaining to prospective purchasers how hotel pooling proceeds are calculated;

(e) audited financial statements in respect of each of the Hotel Program and Events for the most recent full year, with comparative figures for the previous year;

(f) unaudited financial reports to PSOs in respect of each of the Hotel Program and Events for the period since the end of the last year covered by the audited statements; and

(g) budgetary data required to be delivered pursuant to the Condominium Act.

21. The Rental Management Agreement imposes an obligation on each PSO to provide Events with reasonable notice of a proposed sale of the Condo Unit. Obligations under the Rental Management Agreement (including the obligations set out in paragraph 14 above) shall continue in force regardless of any change in ownership of the Condo Unit.

22. The Rental Management Agreement shall not require an owner of a unit to give any person an assignment of any of his, her or its right to vote on any matter relating to the affairs of TSCC 1703.

AND UPON considering the application and the recommendation of staff of the Commission;

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

IT IS ORDERED, pursuant to Section 144 of the Act, that the Variation Sought is granted, provided that:

(a) the prospective purchaser receives all of the documents and information referred to in paragraph 20 prior to entering into a Purchase Agreement;

(b) the notice referred to in paragraph 21 is given by the seller to Events of the seller's intent to sell his, her, or its Condo Unit and the corresponding Trust Interest;

(c) the Applicant and Events comply with paragraph 19; and

(d) the seller, or an agent acting on the seller's behalf does not advertise, market, or promise any guaranteed or committed economic benefits of the Hotel Program or Hotel Services to the prospective purchaser.

DATED at Toronto on this 18th day of December, 2015.

"Judith Robertson"
Commissioner

"William Furlong"
Commissioner

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Dennis L. Meharchand et al.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5

AND

IN THE MATTER OF
DENNIS L. MEHARCHAND,
KWOK YAN LEUNG (also known as TONY LEUNG) and
VALT.X HOLDINGS INC.

REASONS AND DECISION

Hearing:	October 14, 2015		
Decision:	December 16, 2015		
Panel:	Timothy Moseley	–	Commissioner and Chair of the Panel
Appearances:	Christie Johnson	–	For Staff of the Commission
	James Camp	–	For Dennis L. Meharchand and Valt.X Holdings Inc.
	Kwok Yan Leung	–	For himself

REASONS AND DECISION

I. OVERVIEW

[1] Valt.X Holdings Inc. ("**Valt.X**") is an Ontario corporation that sells software and hardware products designed to mitigate the threats associated with malware and other cyber-security issues. Dennis L. Meharchand ("**Meharchand**") is the Chief Executive Officer, Secretary, and a director of Valt.X. Kwok Yan Leung, also known as Tony Leung ("**Leung**"), is the President and a director of Valt.X.

[2] On September 11, 2015, the Ontario Securities Commission (the "**Commission**") issued a temporary order (the "**Temporary Order**") that cited apparent contraventions of various provisions of the *Securities Act*[1] (the "**Act**"). Specifically, the Temporary Order noted that Meharchand, Leung and Valt.X (collectively, "the **Respondents**") may have:

a. engaged in the business of trading in securities without being registered; and

b. traded in securities in a manner that constituted an illegal distribution.

[3] The Commission ordered that:

a. trading in securities of Valt.X cease;

b. trading in any securities cease by Valt.X, Meharchand and Leung; and

c. any exemptions contained in Ontario securities law not apply to the Respondents.

[1] R.S.O. 1990, c. S.5.

[4] The Temporary Order provided that it would expire on September 26, unless extended by the Commission. I extended the Temporary Order twice, on September 23 and October 1. From the record before me, it appeared that Valt.X had been raising capital in reliance upon the "accredited investor exemption" provided for in section 2.3 of National Instrument 45-106 *Prospectus and Registration Exemptions* ("**NI 45-106**"), but had not filed the required reports of exempt distribution on time and may have improperly relied upon the exemption in at least one instance.

[5] At a hearing on October 14, Staff of the Commission ("**Staff**") requested a third extension of the Temporary Order. At the conclusion of the hearing I advised that I would not further extend the order, that it would therefore expire on its own terms on October 15, and that I would issue written reasons for my decision. These are my reasons.

II. BACKGROUND

A. Incorporation and initial fundraising

[6] Valt.X was incorporated in 2006 by Meharchand and Leung. According to Meharchand, Valt.X has raised capital over the years in order to:

a. design and develop computer security products;

b. obtain patents in Canada and various other countries;

c. retain independent third parties to assess and report on Valt.X's products; and

d. retain business development consultants.

[7] As noted above, Valt.X intended to rely upon the accredited investor exemption. Valt.X retained legal counsel to draft appropriate documents, including a subscription form, a shareholder agreement and an accredited investor certification.

[8] According to Meharchand, Valt.X followed the subscription process designed by its counsel. Valt.X would not issue shares to an investor unless that investor completed the necessary documentation, including the accredited investor certification.

B. Warning letter and subsequent fundraising

[9] In 2007, Staff reviewed Valt.X's activities and was concerned about whether Valt.X was properly relying upon the accredited investor exemption and whether Valt.X was filing the reports of exempt distribution as required by section 6.1 of NI 45-106. On October 30, 2007, the Commission's Director of Enforcement wrote a letter to counsel for Valt.X that stated, in part:

> Based upon our review, it appears that [Valt.X] has improperly relied upon the accredited investor exemption to effect sales of its securities to members of the public. In addition, [Valt.X] has not filed any Reports of Exempt Distribution with us since September 2006 …
>
> To ensure that your clients' business activities satisfy Ontario securities laws, we require your clients to conduct proper due diligence on each potential investor to ensure that all future sales are in compliance with Ontario securities law. In addition, we require your clients to file all required Reports of Exempt Distribution with us for all future sales in compliance with National Instrument 45-106.

[10] Over the next several years, Meharchand met with Staff twice to review Valt.X's fundraising activities. As Meharchand now asserts, Staff appears to have been satisfied that Valt.X was complying with Ontario securities law.

C. Events leading to the Temporary Order

[11] Valt.X came to Staff's attention again on December 31, 2014, when a Texas resident contacted the Commission regarding concerns he had about a share certificate received from Valt.X. The individual had learned of Valt.X through a friend, had reviewed the company's website, had contacted Meharchand, and had ultimately invested approximately US$10,000 in Valt.X.

[12] Staff interviewed the investor by telephone in April 2015. The investor confirmed that he qualified as an accredited investor for the purposes of Ontario securities law. The investor sent a number of documents to Staff, including an unsigned subscription agreement for shares of Valt.X. That agreement included a representation that the signing

investor is an accredited investor. Schedules attached to the agreement allowed the investor to specify the applicable category to support the availability of the accredited investor exemption (e.g., a person whose net worth was greater than $1 million).

[13] Staff continued its investigation and found publicly accessible Valt.X-related materials and videos online. These materials promoted Valt.X, referred to previous successful funding efforts, outlined plans for future funding, and identified intended uses for the capital that was to be raised.

D. Temporary Order

[14] As a result of Staff's concerns about Valt.X's past conduct and stated intention to raise further funds, the Commission issued the Temporary Order on September 11, 2015, without a hearing, pursuant to subsection 127(5) of the Act. The Temporary Order provided that it would expire on September 26 unless extended.

[15] The Secretary to the Commission issued a notice of hearing that set September 23 as the date for a hearing at which the Commission would determine whether to extend the Temporary Order.

E. September 23 hearing

[16] At a hearing before me on September 23, Staff sought an extension of the Temporary Order. Meharchand appeared on behalf of Valt.X and on his own behalf. Leung did not appear although he had been properly served with the notice of hearing.

[17] At the hearing, Staff relied upon a September 17 affidavit of Daniella Kozovski, investigative counsel in the Commission's Enforcement Branch. Staff also advised that Valt.X had filed reports of exempt distribution as recently as the day before the hearing, but said that Staff had not yet had an opportunity to review them fully.

[18] Meharchand accepted responsibility for Valt.X's failure to file the required reports in a timely way and explained that Leung had nothing to do with Valt.X's fundraising activities. He also referred to a number of documents that he intended to submit.

[19] In order to allow both Staff and the Respondents an opportunity to review the documents and to prepare proper materials to be filed, I adjourned the hearing to October 1 and I extended the Temporary Order until October 2.

F. October 1 hearing

[20] At the hearing on October 1, Staff sought a second extension of the Temporary Order. Counsel appeared on behalf of Meharchand and Valt.X. Leung did not appear. Staff submitted a second affidavit of Daniella Kozovski, sworn September 25.

[21] On consent of Staff, Meharchand and Valt.X, I adjourned the hearing to October 14 and extended the Temporary Order to October 15, with a minor modification to permit Leung to trade for his personal account.

G. October 14 hearing

[22] At the October 14 hearing, Staff sought a third extension of the Temporary Order. Counsel again appeared on behalf of Meharchand and Valt.X. Meharchand and Leung attended in person. Counsel for Meharchand and Valt.X opposed Staff's application, in reliance upon an affidavit sworn by Meharchand on October 13. Leung made no submissions.

[23] At the conclusion of the hearing I dismissed Staff's application.

III. LEGAL FRAMEWORK

A. Nature of temporary cease trade orders

[24] Temporary orders such as the one in this case are made pursuant to:

a. subsection 127(1) of the Act, which authorizes the Commission to make certain orders "if in its opinion it is in the public interest" to do so; and

b. subsection 127(5) of the Act, which provides that an order such as the Temporary Order may be made without a hearing.

[25] Each of Staff's three consecutive applications for extensions of the Temporary Order was made pursuant to subsection 127(8) of the Act, which provides that a temporary order made under subsection 127(1) may be extended for such period as the Commission considers necessary "if satisfactory information is not provided to the Commission".

[26] Any decision as to whether or not to issue or extend a temporary cease trade order must be done with reference to the purposes of the Act and to the principles that the Commission is obligated to consider. Section 1.1 of the Act sets out the two purposes of the Act:

a. to provide protection to investors from unfair, improper or fraudulent practices; and

b. to foster fair and efficient capital markets and confidence in capital markets.

[27] Section 2.1 of the Act requires the Commission to have regard to a number of "fundamental principles" in pursuing those purposes. One of the principles explicitly contemplates that in specific cases, balancing the importance given to each of the two purposes may be required.

[28] This is such a case. Staff seeks to protect investors from improper practices. Valt.X seeks fair access to the capital markets in order to raise funds. I must balance these two goals in determining whether to extend the Temporary Order.

B. Satisfactory information

[29] The question of what information might be "satisfactory", and the issues that would need to be resolved to answer that question, can be determined only with reference to the grounds upon which Staff submits that the order should be made.

[30] In an enforcement proceeding, Staff would file a statement of allegations that would describe the conduct that Staff claims violates the Act. Because this is not an enforcement proceeding, no statement of allegations has been filed. However, it is clear from the written materials and from oral submissions that Staff is concerned that the Respondents may have:

a. traded in securities of Valt.X without being registered, contrary to section 25 of the Act; and

b. illegally distributed securities, contrary to section 53 of the Act.

[31] These two potential violations of the Act form the foundation for Staff's application.

IV. ISSUES

[32] In written submissions, and initially at the hearing, Staff counsel argued that I should grant the order sought for two reasons: (i) to permit further investigation; and (ii) because it is in the public interest to do so, given the evidence of past conduct harmful to the public interest. Following further discussion regarding the first of these two reasons, Staff counsel conceded that Staff's investigation of the Respondents' past conduct would not be impeded if the Temporary Order were not extended. Accordingly, submissions from both counsel focused on the past conduct of the Respondents and the risk of future harm to investors and the capital markets.

[33] At the hearing, Staff counsel agreed that there was nothing in the evidence relating to Valt.X's future plans to raise funds that suggested that Valt.X would do so in a manner that would fail to comply with Ontario securities law. It follows that any concern I might have about the risk of future harm to investors or the capital markets must be based upon past conduct.

[34] Staff's application to extend the Temporary Order therefore presents the following issues:

a. Does the evidence adduced by Staff suggest that the Respondents may have:

i. engaged in the business of trading in securities of Valt.X without being registered; and/or

ii. illegally distributed the securities of Valt.X?

b. If so, have the Respondents adduced satisfactory information to justify a dismissal of Staff's application for a further extension of the Temporary Order?

[35] I have framed the first of these issues differently than Staff did. As I explain in greater detail below, one of Staff's concerns (as noted above) is that the Respondents may have traded in securities without being registered. However,

the prohibition in section 25 of the Act extends only to those who engage in the business of trading in securities without being registered. The difference is important, for the reasons set out below.

V. ANALYSIS

A. Does the evidence adduced by Staff suggest that the Respondents may have engaged in the business of trading in securities of Valt.X without being registered?

[36] Section 25 of the Act prohibits a person or company from "engaging in the business of trading in securities" unless the person or company is appropriately registered or is entitled to rely upon an exemption. None of the Respondents is registered.

[37] As noted above, the prohibition in section 25 contains two distinct and essential elements. The underlying activity contemplated is trading in securities, but the prohibition extends only to those who engage in the business of doing so.

[38] In Staff's written submissions, Staff alleges "that the Respondents are trading in securities of Valt.X without being registered". Such a description improperly excludes the essential element of "engaging in the business of".

[39] Staff's written submissions also contain the bald assertion that "the allegations and evidence … establish that the Respondents are trading without being registered, contrary to section 25 of the Act …". Allegations establish nothing, other than the fact that the allegations are being made. As for evidence, Staff's written submissions are silent as to what evidence in the record supports the contention that the Respondents have engaged in the business of trading.

[40] At the hearing, Staff counsel argued that the Respondents were engaged in the business of trading because their conduct met the "business purpose" test found in section 1.3 of Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**31-103CP**"). That section enumerates five factors Staff considers "relevant in determining whether an individual or firm is trading or advising in securities for a business purpose".

[41] While it is generally helpful and appropriate for the Commission to refer to a relevant Companion Policy in the course of a proceeding, it is important to bear three things in mind:

1. The purpose of 31-103CP, like all Companion Policies, is to inform market participants and others about how Staff may interpret or apply provisions of Ontario securities law. A Companion Policy is not itself part of Ontario securities law.

2. The enumerated factors in section 1.3 of 31-103CP are merely potential indicators, as opposed to conclusive criteria.

3. The objective of the business purpose test and the five indicators is to distinguish those businesses that require registration under securities law from those businesses that need not register. Even those businesses that are corporations, and are therefore issuers of securities, do not need to register simply because of that fact. In the context of this case, the indicators set out in 31-103CP must be interpreted in a manner consistent with section 25 of the Act, which as noted above extends to a person or company that engages "in the business of" trading in securities.

[42] With these principles in mind, I deal in turn with each of the three of the five indicators Staff counsel cited at the hearing as being relevant to this case.

[43] The first is described in 31-103CP as "engaging in activities similar to a registrant" and is explained as follows:

> We usually consider an individual or firm engaging in activities similar to those of a registrant to be trading or advising for a business purpose. Examples include promoting securities or stating in any way that the individual or firm will buy or sell securities. If an individual or firm sets up a business to carry out any of these activities, we may consider them to be trading or advising for a business purpose.

[44] The words "promote" and "sell" in that guidance cannot reasonably be interpreted in such a way as to extend the guidance to every corporation. A corporation that does not promote or sell securities other than its own, but only issues its own securities, should not as a result of doing so be found to be engaging in activities similar to those of a registrant.

[45] In this case, Staff adduced no evidence of the Respondents engaging an any activities with respect to securities other than shares of Valt.X, or any other activities similar to those of a registrant.

[46] The second indicator is described in 31-103CP as "directly or indirectly carrying on the activity with repetition, regularity or continuity", and is explained by the following:

> Frequent or regular transactions are a common indicator that an individual or a firm may be engaged in trading or advising for a business purpose. The activity does not have to be their sole or even primary endeavour for them to be in the business.
>
> We consider regularly trading or advising in any way that produces, or is intended to produce, profits to be for a business purpose. We also consider any other sources of income and how much time an individual or firm spends on all activities associated with the trading or advising.

[47] As counsel for Meharchand and Valt.X correctly submitted, while Valt.X did raise funds regularly, that is true of many issuers, particularly those that are in their early stages as well as those that are engaged in capital-intensive projects. Both of those characteristics apply to Valt.X. Indeed, section 1.3 of 31-103CP goes on to say that "technology companies may raise money with only a business plan for many years before they start producing a product or delivering a service."

[48] There was no evidence before me to suggest that Valt.X's capital-raising activities were any different than would be expected of a technology company in similar circumstances.

[49] The third indicator referred to by Staff is described in 31-103CP as "directly or indirectly soliciting" and is explained as "contacting anyone to solicit securities transactions or to offer advice". Once again, these words cannot be interpreted in such a way as to cause them to apply to every issuance of shares by a corporation. There is no evidence to suggest that any of the Respondents solicited securities transactions other than purchases of shares of Valt.X.

[50] In oral submissions, Staff counsel asserted that "the act of operating a non-securities related business does not qualify the Respondents from being exempt from the registration requirements if they are selling and distributing shares of that company." The logical extension of that assertion is that any issuer with a legitimate business unrelated to securities must be registered in order to issue its shares. I reject that submission.

[51] All of the evidence before me suggests that Valt.X is a legitimate technology company that raises capital from time to time. There is no evidence that Valt.X, Meharchand or Leung have at any time engaged in the business of trading in securities.

B. Does the evidence adduced by Staff suggest that the Respondents may have illegally distributed the securities of Valt.X?

[52] Staff identified two separate concerns about Valt.X's purported reliance upon the accredited investor exemption. The first is whether the exemption was improperly relied upon in the first place. The second is that where a proper exempt distribution did occur, Valt.X failed to file the appropriate report as required.

[53] While Staff raised the concern that investors in Valt.X were not being properly screened to ensure that they qualified as accredited investors, Staff adduced no evidence of any Valt.X investor who was not so qualified.

[54] As for the requirement to file reports, Staff's September 25 affidavit records that several days earlier, Meharchand advised Staff that he had filed all required reports of exempt distribution on behalf of Valt.X. Staff conducted a review of the reports filed, and of banking documentation. From that review, Staff concluded that Valt.X had raised approximately $2.6 million from over 100 individual investors between January 2012 and August 2015. Staff identified one investor who appeared to have subscribed for $1000 worth of Valt.X shares, but in respect of whom no report of exempt distribution had been filed. Meharchand states in his affidavit that at the time of Staff's affidavit, Valt.X had not yet obtained the completed subscription agreement and accredited investor certification from the investor. The investor provided those documents to Valt.X days later, and Valt.X filed the required report of exempt distribution.

[55] In the record before me, there was no other evidence of a missing report of exempt distribution.

[56] Staff submitted that the investigation was in its early stages and Staff needed more time to assess whether or not any of Valt.X's fundraising activities constituted an illegal distribution. That submission is a fair one. However, for the purposes of this application for an extension of the Temporary Order I can consider only the evidence that is available now.

[57] While that evidence does not, at this point, demonstrate conclusively that the Respondents engaged in an illegal distribution, it is undisputed that Valt.X was not as attentive as it ought to have been with respect to the regulatory requirements that applied to its capital-raising activities. I find that the evidence adduced by Staff raises a concern

about the Respondents' compliance with Ontario securities law and that this concern is sufficient to shift the burden to the Respondents to adduce satisfactory information to justify a dismissal of Staff's application for an extension of the Temporary Order.

C. Have the Respondents adduced satisfactory information to justify a dismissal of Staff's application for a further extension of the Temporary Order?

[58] The Respondents' burden is to adduce "satisfactory information". Determining whether information is satisfactory involves balancing the two interests referred to in paragraph [28] above, namely Staff's interest in protecting investors from improper practices and Valt.X's interest in fair access to the capital markets.

[59] As the Commission has previously stated, the power to issue and extend temporary cease trade orders is an extraordinary remedy and should not be exercised lightly.[2] Such an order can have significant consequences for an issuer seeking to raise capital. The fact that an issuer conducted itself in a manner that may have been contrary to Ontario securities law is not necessarily sufficient to warrant this extraordinary remedy that would prevent the issuer from continuing to participate in Ontario's capital markets. The past conduct may, in a given case, provide a basis for the Commission to order sanctions at the conclusion of an enforcement proceeding, but for that past conduct to justify the issuance of a temporary cease trade order, the Commission must be satisfied that any risk of future harm to investors outweighs the issuer's legitimate interest in accessing fair and efficient capital markets.

[60] In this case, I find that the risk of future harm to investors is low. There is no evidence that any of the Valt.X investors, all of whom Valt.X claims are properly qualified as accredited investors, does not in fact so qualify.

[61] With respect to the filing of reports of exempt distribution, Meharchand says the following in his affidavit:

> As Valt.X is short-staffed it failed to file its Reports of Exempt Distribution in a timely manner. However, as confirmed by Ms. Kozovski in her Supplementary Affidavit Valt.X has brought its filings current. I will ensure that Valt.X files these reports in a timely fashion in future.

[62] Meharchand has accepted responsibility for the failure and has pledged that he and Valt.X will, in the future, conduct themselves in a fully compliant manner. If they do not, they will of course be subject to an appropriate regulatory response.

[63] The requirement to file a report of exempt distribution is an important element of the regulatory framework, and is a necessary tool for Staff of the Commission to rely upon in seeking to protect investors. However, in this case, the evidence relating to Valt.X's investors, the evidence explaining past failures to file reports of exempt distribution on time, and the assurances given as to future conduct, constitute "satisfactory information" and are sufficient to discharge the onus placed upon the Respondents by subsection 127(8) of the Act.

VI. CONCLUSION

[64] It is clear that Valt.X did not fully comply with Ontario securities law, given its failure to file reports of exempt distribution on time. However, for the reasons set out above, I find that Valt.X and Meharchand have adduced "satisfactory information" and therefore it is not in the public interest to extend the Temporary Order against them.

[65] Staff did not challenge Meharchand's assertion at the September 23 hearing that Leung had nothing to do with Valt.X's capital-raising activities. Further, there was no evidence in the record whatsoever regarding Leung, other than the fact that he is an officer and director of Valt.X. Even if Leung had been involved in Valt.X's capital-raising activities, my conclusions with respect to Valt.X and Meharchand would apply equally to him. It is therefore not in the public interest to extend the Temporary Order against him.

[66] For the foregoing reasons, Staff's application to extend the Temporary Order is dismissed.

Dated at Toronto this 16th day of December, 2015.

"Timothy Moseley"

[2] *Shallow Oil & Gas Inc. et al. (Re)*, (2008), 31 OSCB 2007 at para, 33.

3.1.2 Central GoldTrust (Trustees of) et al. – ss. 127(1)5, 127(2)

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
AN APPLICATION BY THE TRUSTEES OF
CENTRAL GOLDTRUST and
SILVER BULLION TRUST

AND

IN THE MATTER OF
SPROTT ASSET MANAGEMENT GOLD BID LP,
SPROTT ASSET MANAGEMENT SILVER BID LP,
SPROTT ASSET MANAGEMENT LP,
SPROTT PHYSICAL GOLD TRUST and
SPROTT PHYSICAL SILVER TRUST

REASONS AND DECISION
(Subsections 127(1)5 and 127(2) of the Act)

Hearing:	November 18, 2015		
Decision:	December 18, 2015		
Panel:	Mary G. Condon	–	Commissioner and Chair of the Panel
	D. Grant Vingoe	–	Vice-Chair
	Judith N. Robertson	–	Commissioner
Appearances:	Robert W. Staley Derek J. Bell Jason Beral	–	For the Applicants
	Peter F. C. Howard Eliot N. Kolers Mel Hogg	–	For the Respondents
	Anna Perschy Naizam Kanji Adeline Lee Jordan Lavi	–	For Staff of the Commission

TABLE OF CONTENTS

REASONS AND DECISION

I. OVERVIEW

[1] On November 18, 2015, a hearing was held before the Ontario Securities Commission (the "**Commission**") with respect to an application dated November 10, 2015 (the "**Application**") filed by the trustees of Central GoldTrust ("**CGT**") and Silver Bullion Trust ("**SBT**") (together, the "**Applicants**"), in connection with:

a. the unsolicited take-over bid by Sprott Asset Management Gold Bid LP, Sprott Asset Management LP and Sprott Physical Gold Trust ("**SPG**") (collectively, "**Sprott Gold**") to acquire all of the outstanding units of CGT in exchange for units of SPG (the "**Sprott Gold Bid**"); and

b. the unsolicited take-over bid by Sprott Asset Management Bid LP, Sprott Asset Management LP and Sprott Physical Silver Trust ("**SPS**") (collectively, "**Sprott Silver**", and together with Sprott Gold, "**Sprott**" or the "**Respondents**") to acquire all of the units of SBT in exchange for units of SPS (the "**Sprott Silver Bid**", or together with the Sprott Gold Bid, the "**Sprott Bids**").

[2] The remedies sought by the Applicants included various orders under subsections 104(1) and 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "**Act**").

[3] The Application raised a number of issues, which we have characterized as follows:

a. whether the Panel should hear the Application;

b. whether the Sprott bids violate the identical consideration requirements of section 97 of the Act;

c. whether the Sprott Bids are contrary to the public interest; and

d. if either (b) or (c) are found to be the case, what is the proper remedy to be imposed.

[4] We explained to the parties at the hearing that in the interests of efficiency we would hear the arguments about whether we should hear the Application as well as the evidence and substance of the Application at the same time. We therefore address each of the issues enumerated above in these reasons.

[5] At the hearing on November 18, 2015, we heard testimony from Bruce D. Heagle, a member of the Board of Trustees of each of CGT and SBT and Chair of the Special Committee of the Board of Trustees of each of CGT and SBT, and from John Wilson, the Chief Executive Officer, Co-Chief Investment Officer and Senior Portfolio Manager of Sprott Asset Management LP and oral submissions from the Applicants, the Respondents and Staff of the Commission ("**Staff**").

[6] Having considered all the evidence, submissions and materials, we determined that it was in the public interest to hear the Application and make the following order (the "**Order**"), which was issued on November 19, 2015 (*Re Trustees of Central GoldTrust et al.* (2015), 38 O.S.C.B. 9871)[1]:

a. If Sprott wishes to proceed with the Sprott Gold Bid or Sprott Silver Bid it shall issue a notice of change in information providing clear and complete disclosure to unitholders of CGT and SBT concerning the effect of the November 4th Variation on the removal and replacement of the boards of trustees of CGT and SBT, unitholder withdrawal rights, the implementation of the Merger Transactions[2] and the attendant risks for unitholders of these matters;

b. For greater clarity, the disclosure should include:

i. The effect of the amendments to the powers of attorney granted to Sprott and their intended use by Sprott;

ii. The process by which the new trustees will effect the Merger Transactions, including the increased time period between their appointment and the implementation of the Merger Transactions, and associated risks and uncertainties;

1 The capitalized terms in this quote are as defined and/or used in the Order.
2 As defined in the Order and paragraph 43 below.

iii. The change in the required unitholder approval of the Merger Transactions as a result of the November 4th Variation from that contemplated by the Special Resolutions;[3]

iv. The duties of the Sprott nominees proposed to be appointed as the trustees of CGT and SBT, and specifically including the undertaking provided to the Commission at the November 18, 2015 hearing that they would resign if the Merger Transactions are not effected;

v. The consequences to unitholders if the Merger Transactions fail to obtain the necessary approvals; and

vi. A description of the withdrawal rights available to unitholders both before and after the appointment of the new trustees;

c. Before dissemination of the notice(s) of change in information to unitholders, Sprott shall deliver them to Staff for its review and comment; and

d. Sprott shall not exercise any rights in relation to the Letters of Transmittal before the expiration of 15 days from the date on which Sprott issues the notice(s) of change in information required by this Order.

[7] In our view, the Order issued was the appropriate remedy as the issues raised by the Applicants could be adequately addressed by enhanced disclosure as well as by providing further time for investors to assimilate this disclosure. This would enable investors to make an informed choice about whether or not to tender to the Sprott Bids or to exercise withdrawal rights, as the case may be.

[8] These are our reasons for issuing the Order.

II. HISTORY OF THE SPROTT BIDS

[9] On April 23, 2015, Sprott issued a press release announcing its intention to make the Sprott Bids to acquire all of the outstanding units of CGT and SBT. The Sprott Bids were formally commenced on May 27, 2015, pursuant to an offer to purchase and take-over circular of Sprott Gold and an offer to purchase and take-over circular of Sprott Silver.

[10] The Sprott Bids have since been amended by a Notice of Extension and Variation dated June 22, 2015, a Notice of Extension and Variation dated July 7, 2015, a Notice of Extension and Variation dated August 4, 2015, a Notice of Change dated August 18, 2015, a Notice of Change dated August 28, 2015, a Notice of Variation dated September 4, 2015, a Notice of Extension dated September 18, 2015, a Notice of Extension and Variation dated October 9, 2015, a Notice of Extension dated November 2, 2015 and a Notice of Variation dated November 4, 2015 (the "**November 4th Variation**").

[11] On June 24, 2015, CGT and SBT commenced an application to the Ontario Superior Court of Justice (the "**Court**") seeking declaratory relief with respect to the Sprott Bids, following which Sprott commenced a counter-application seeking a declaration that certain amendments to the CGT and SBT Declarations of Trust were improper defensive tactics.

[12] On July 31, 2015, Justice Wilton-Siegel issued his decision in both the Court application and the counter-application (the "**Court Decision**"). He denied the declaratory and injunctive relief sought by the trustees of CGT and SBT, and required Sprott to amend the "**Letters of Transmittal**" to ensure that the powers of attorney ("**POA**") would terminate upon the withdrawal of any units in the event that tendered units were not paid for by Sprott within three business days of Sprott taking up such units. He also found that the amendments to the "**Declarations of Trust**" of CGT and SBT were invalid.

[13] On August 31, 2015, the trustees of CGT and SBT filed a Notice of Appeal from the decision of Justice Wilton-Siegel. The appeal was not perfected and it was dismissed for delay by the Court of Appeal on November 2, 2015.

[14] On November 17, 2015, the trustees of CGT and SBT each announced that they were entering into a letter of intent with Purpose Investments Inc., proposing the conversion of each of CGT and SBT into exchange-traded funds of gold and silver bullion. At the hearing, we were provided with an affidavit which included the Applicants' news release announcing the transaction. Because the terms of this transaction were not public and continued to be negotiated at the time of the hearing, and limited evidence was provided about the details of the transaction, it was not a factor which influenced our decision in a substantial way.

[3] Such resolutions and special resolutions are set out in the excerpts of the original and amended Letters of Transmittal reproduced in Schedules A and B of these reasons.

III. ISSUES

A. Should the Panel hear the Application?

[15] The Supreme Court of Canada (the "**SCC**") has stated that "the [Commission] has the jurisdiction and a broad discretion to intervene in Ontario capital markets if it is in the public interest to do so (*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 ("***Asbestos***") at para. 45). The Commission's public interest jurisdiction allows it to intervene in matters affecting Ontario capital markets even in circumstances where there has been no breach of the Act, the regulations or any policy statement (*Re Patheon Inc.* (2009), 32 O.S.C.B. 6445).

[16] In the extraordinary circumstance whereby a private party wishes to bring an application under section 127 of the Act, the Commission has the discretion to permit it to do so (*MI Developments (Re)* (2009), 32 O.S.C.B. 126 ("***MI Developments***")). In *MI Developments*, the Commission considered the following factors when deciding whether to exercise its discretion in favour of permitting an application by a private party: (i) the applications were not, at their core, enforcement in nature; (ii) the applications related to both past and future conduct regulated by Ontario securities law; (iii) the Commission has the authority to grant an appropriate remedy; (iv) the applicants were directly affected by the conduct (past and future); and (v) the Commission concluded it was in the public interest to hear the applications.

[17] We find that it is in the public interest to hear the Application for a number of reasons.

[18] The Application raises novel issues pertaining to take-over bid mechanisms where the target is a trust, governed by a declaration of trust, as opposed to a corporation, governed by corporate law and constating documents adopted pursuant to such legislation. The powers granted pursuant to the POAs contained within the Letters of Transmittal provide for the replacement of the trustees of the target prior to taking up and paying for such securities, subject to the ability of the tendering security holder to withdraw such securities. As there is relatively little case law involving targets that are trusts as opposed to corporations, there are public interest issues that the Commission should address.

[19] While the Respondents submitted that we should not hear the Application because issues contained therein were either dealt with in the Court Decision or could have been raised in the Court application, we find that certain of the issues raised by the Application were not and could not have been addressed at that time. Specifically, the issues stemming from the November 4th Variation could not have been known to the Applicants at the time of the Court application. The issue of non-identical consideration was also not raised before the Court.

[20] The Respondents took the position that the non-identical consideration issue should have been apparent to the Applicants from the date of the launch of the Sprott Bids and should not be heard by us. While there was delay in identifying the identical consideration issue, given the importance of this principle to the take-over bid regime we are prepared to consider the issues raised about it by the Applicants.

[21] Concerning whether the Court or the Commission is the appropriate forum to deal with the Application, we note that Justice Wilton-Siegel stated in the Court Decision that "the Court is not exercising a public interest discretion similar to that of the Ontario Securities Commission ..." (*Central GoldTrust v Sprott Asset Management Gold Bid LP*, 2015 O.N.S.C 4888 at para. 31). While there is some overlap in the subject matter of the applications relating to Ontario securities law that were brought before the Court in June 2015 and the Commission now, both the public interest jurisdiction of the Commission and the remedies available to the Commission are different from those available to the Court. The Commission's mandate, as expressed in section 1.1 of the Act, is forward looking and prospective in nature (Asbestos, supra at para. 45) and it is open to the Commission to intervene, as it has in this case and others, to assess whether the bid in question has features that may engage investor protection, efficient market concerns and broader public interest considerations.

B. Do the Sprott Bids violate the identical consideration requirement of section 97 of the Act?

1. Facts

[22] Under the Sprott Bids, CGT and SBT unitholders would receive units of SPG or SPS, as applicable, on a Net Asset Value ("**NAV**") to NAV basis, at a fixed exchange ratio.[4] SPG and SPS units have both cash redemption and physical redemption features.

[23] The cash redemption feature permits unitholders to redeem their units for cash at a redemption price per unit equal to 95% of the lesser of: (i) the volume-weighted average trading price of the units; and (ii) the net asset value of the redeemed units on the applicable redemption date.

[24] The physical redemption feature permits unitholders to redeem their units for physical bullion at a redemption price equal to 100% of the NAV on the applicable redemption date. The physical redemption feature is only open to unitholders redeeming the number of units that are at least equivalent to the value of one London Good Delivery bar of gold or ten London Good Delivery bars of silver, as applicable. Any fractional amount of redemption proceeds in excess of the value of one London Good Delivery bar of gold or ten London Good Delivery bars of silver, is paid in cash at a rate equal to 100% of the NAV of the redeemed units on the applicable redemption date. We were informed at the hearing that one London Good Delivery bar had a current market value of approximately US$430,000 and that ten London Good Delivery bars of the silver had a current market value of approximately US$139,000.

[25] SPG and SPS units trade on the Toronto Stock Exchange and the NYSE Arca market.

2. Analysis

[26] Our analysis is based on subsection 97(1) of the Act, which states that, if a formal bid is made, all holders of the same class of securities shall be offered identical consideration.

[27] The Applicants submitted that the Sprott Bids violate subsection 97(1) of the Act because the consideration offered is not identical for all unitholders of CGT and SBT. In their submission, the physical redemption feature existing in SPG and SPS units has the effect of providing different consideration to those CGT and SBT unitholders who hold a sufficient number of units to take advantage of the physical redemption feature. The Applicants submitted that the minimum threshold to take advantage of the physical redemption features has the practical effect of offering institutional and other large unitholders different consideration than retail unitholders.

[28] The Respondents submitted that the consideration offered by the Sprott Bids is identical. All unitholders of CGT and SBT are to receive identical units of SPG and SPS, as the case may be, at a fixed exchange ratio.

[29] Staff submitted that the Sprott Bids do not violate the identical consideration requirement under subsection 97(1) of the Act. In order to determine the identical consideration issue, Staff also submitted that the Commission should have

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[4] As set out in the Letter of Transmittal for deposits of units of CGT (defined in the Letter of Transmittal as "GTU") pursuant to the Sprott Gold Bid in the initial offer dated May 27, 2015:

> "GTU Unitholders who deposit GTU Units to the Offer will be offered the opportunity to make the Exchange Offer Election or the Merger Election. The number of PHYS [defined in our reasons as SPG] Units to be distributed to each GTU Unitholder under the Offer and the Merger Transaction will be determined on the basis of the NAV to NAV Exchange Ratio, being for each GTU Unit such number of PHYS Units as is equal to (A) the Net Asset Value per GTU Unit (as calculated in accordance with the GTU Declaration of Trust on Expiry Date, including, in the case of GTU's gold bullion, the value thereof based on the London Bullion Association second fixing price for gold bullion on the Expiry Date) divided by (B) the Net Asset Value per PHYS Unit (as calculated, in accordance with the PHYS Trust Agreement, on the Expiry Date, including, in the case of Sprott Physical Gold Trust's gold bullion, the value thereof based on the London Bullion Association second fixing price for gold bullion on the Expiry Date)".

As set out in the Letter of Transmittal for deposits of units of SBT pursuant to the Sprott Silver Bid in the initial offer dated May 27, 2015:

> "SBT Unitholders who deposit SBT Units to the Offer will be offered the opportunity to make the Exchange Offer Election or the Merger Election. The number of PSLV [defined in our reasons as SPS] Units to be distributed to each SBT Unitholder under the Offer and the Merger Transaction will be determined on the basis of the NAV to NAV Exchange Ratio, being for each SBT Unit such number of PSLV Units as is equal to (A) the Net Asset Value per SBT Unit (as calculated, in accordance with the SBT Declaration of Trust, on Expiry Date, including, in the case of SBT's silver bullion, the value thereof based on the London Bullion Association fixing price for silver bullion on the Expiry Date) divided by (B) the Net Asset Value per PSLV Unit (as calculated, in accordance with the PSLV Trust Agreement, on the Expiry Date, including, in the case of Sprott Physical Silver Trust's silver bullion, the value thereof based on the London Bullion Association fixing price for silver bullion on the Expiry Date)."

reference to the principles underlying "consideration of greater value" in the collateral benefits subsection (s. 97.1(1) of the Act).

[30] Staff submitted that: (i) the Sprott Bids do not appear to have been structured to intentionally favour a particular group of unitholders; (ii) the alleged discriminatory effect would arise because of the pre-existing attributes of the SBG and SBS units; and (iii) the unitholders that acquire SPG and SPS units under the Sprott Bids would have the same units of any other existing SPG or SPS unitholder.

[31] Staff, in its submission, recognized that the Panel may appropriately consider the value of the rights underlying the securities offered as consideration in assessing whether identical consideration has been offered.

[32] Staff, however, submitted that the value of the rights underlying the securities that pertain to the Sprott Bids accrues to all of the CGT and SBT unitholders because the implied value of the physical redemption feature is reflected in the market price. It is on this basis that Staff submitted that the physical redemption features should not be considered to violate the identical consideration requirements of the Act.

[33] We are mindful that the analysis of the consideration offered under a bid is a fact specific one and we are not convinced that in this case the Sprott Bids violate subsection 97(1) for the reasons below.

[34] We find that each of the Sprott Gold Bid and Sprott Silver Bid were comprised of a single security, already existing in the marketplace. The Sprott Bids did not involve securities that were created for these transactions, nor were the redemption features at issue adopted or amended as a result of the Sprott Bids in order to appeal to a segment of CGT or SBT unitholders.

[35] We note that SPG and SPS units attach the same rights, i.e. they all have a cash redemption feature and a physical redemption feature. We acknowledge that the ability of a unitholder to choose and exercise the physical redemption feature is dependent on the value of their holdings. Depending on the total holdings of the specific unitholder, that unitholder may not have a choice between the cash redemption and physical redemption options. However, in our view, the difference in access to redemption choices does not amount to different consideration being offered pursuant to the Sprott Bids.

[36] In deciding that the physical redemption feature of the SPG and SPS units did not result in non-identical consideration being offered to CGT and SBT unitholders, we considered the statement of the SCC in *McClurg v. Canada*, [1990] 3 S.C.R. 1020 at para. 24, "that shareholder rights attach to the shares themselves and not to shareholders". We find that the rights attached to all SPG and SPS units are identical.

[37] While there will be unitholders who do not own the number of units to meet the threshold for the physical redemption option, we accept that it is likely that the benefits of the physical redemption feature flow, to a considerable degree, to all of the SPG and SPS unitholders through its effect on the market price of units. The physical redemption feature may well result in unit prices that more closely track NAV and may enhance the liquidity of all the units in the secondary market.

[38] Given our analysis of the Sprott Bids, the consideration offered does not contravene the securities law requirement for identical consideration. In these circumstances we do not believe that we should intervene to deny investors the opportunity to make the choice whether or not to tender to the Sprott Bids. This is not to say that a future panel could not decide in a different fact scenario that a certain set of features relating to a single security could result in a situation whereby security holders would receive non-identical consideration. In the specific circumstances before us, we find that subsection 97(1) of the Act is not breached.

C. Are the Sprott Bids contrary to the public interest?

[39] The Applicants submitted that the Sprott Bids were contrary to the public interest on the following grounds:

- The Respondents made misleading statements in the media regarding the NAVs and trading value of CGT and SBT;
- The structure of the transactions created confusion for investors; and
- The November 4th Variation amended the POAs granted to Sprott and their intended use by Sprott in a manner that was contrary to the public interest and circumvents the proxy solicitation rules.

[40] Each of these grounds is addressed below.

1. Misleading Statements

[41] With respect to the allegation concerning misleading statements, we note that *MI Developments* limited the ability of private parties to bring applications to remedy past conduct alleged to have brought them harm. Specifically, the Commission explained at paragraph 107 of *MI Developments*:

> In our view, persons other than Staff are not entitled as of right to bring an application under section 127 where the application is, at its core, for the purpose of imposing sanctions in respect of past breaches of the Act or past conduct alleged to be contrary to the public interest. In our view, those purposes are regulatory in nature and enforcement related and such applications should be able to be brought as of right only by Staff. Section 127 should not be used merely to remedy misconduct alleged to have caused harm or damage to private persons.

[42] In our view, the allegations relating to misleading statements engage the enforcement function of Staff. We note that the Applicants also provided their complaints to Staff. Further, we were provided with limited evidence relating to the allegedly misleading statements. As a result, we make no findings on the issue of misleading statements and the Applicants' allegation that the Respondents breached subsection 126.2(1) of the Act.

2. The Structure of the Transactions

[43] The Sprott Bids are structured so that tendering unitholders are required to make one of two elections: (i) the Exchange Offer Election; or (ii) the Merger Election. Unitholders that make the Exchange Offer Election will have their units taken up under the Sprott Bids and exchanged for units of SPG or SPS, as applicable. Unitholders that make the Merger Election will receive units of SPG or SPS, as applicable, upon the compulsory redemption of their units as part of the proposed merger transactions between SPG and CGT and between SPS and SBT (collectively, the "**Merger Transactions**"). If a unitholder tenders without making an election, the unitholder is deemed to have made the Merger Election.

[44] The Merger Transactions contemplated the following steps:

(i) CGT and SBT units subject to the Exchange Offer Election would be taken up and purchased by Sprott;

(ii) Sprott would exercise certain POAs contained within the Letters of Transmittal to execute Special Resolutions that give effect to the Merger Transactions, and to elect new boards of trustees for each of CGT and SBT;

(iii) Sprott would cause CGT and SBT to implement the Merger Transactions pursuant to which CGT would transfer its assets to SPG in return for units of SPG and the assumption of CGT's liabilities, and SBT would transfer its assets to SPS in return for units of SPS and the assumption of SBT's liabilities, in each case exclusive of the administration agreement pertaining to the applicable trust; and

(iv) The boards of trustees of CGT and SBT, would cause CGT and SBT to amend the compulsory acquisition provisions contained in section 13.6 of the "**Declarations of Trust**" to permit a compulsory acquisition of the units of CGT and SBT upon deposit of more than 66 2/3% of the outstanding units of CGT and SBT pursuant to the Sprott Bids and to redeem all of the units of CGT and SBT (subject to retention of one unit of CGT and SBT by SPG and by SPS) in exchange for a distribution to the unitholders of the units of SPG and SPS.

[45] The Applicants submitted that this alleged complexity caused significant confusion among brokers, unitholders and other market participants and, as a result, has had coercive and prejudicial effects on CGT and SBT unitholders, with many units being tendered on the basis of inaccurate or incomplete information, or against the express instructions of unitholders. According to the Applicants, certain unitholders were informed that declining to tender their units to the Sprott Bids was not an available option. The Applicants also submitted that the effect of the fees paid to "soliciting dealer groups" reduced the incentive to communicate with unitholders to clear up confusion.

[46] The Respondents submitted that the Sprott Bids are structured in a manner similar to previous unsolicited bids for income trusts and real estate investment trusts and are not coercive in nature. The Respondents submitted that the Sprott Bids are specifically structured this way in order to seek to mitigate tax consequences for unitholders who wish to defer the immediate realization of gain or loss. Specifically, if there was no merger election and unitholders could only choose the exchange election, then this potential tax deferral would not be available. Further, the Respondents submitted that the formation of a soliciting dealer group is a common feature in the Canadian take-over bid landscape. In addition, Sprott emphasized that nevertheless, once the allegations of confusion were brought to the attention of Sprott, it voluntarily and without prompting went back to each member of the soliciting dealer group and ensured that members were aware that tendering to the Sprott Bids is voluntary.

[47] We find that the structure of the Sprott Bids, specifically the choice between the Exchange Offer Election or the Merger Election, was not a coercive feature. This feature had the commercial goal of seeking to mitigate adverse tax consequences for unitholders who wish to avoid immediate realization of a gain or loss as a result of the transaction, and was intended to be beneficial to unitholders.

[48] We were not provided with sufficient evidence to demonstrate that the terms and conditions related to the formation of "soliciting dealer groups" or their conduct in this case was improper. Further we note that the Respondents did communicate with the soliciting dealer groups in an effort to clear up confusion once they became aware of it.

3. November 4th Variation and Amended POA

[49] The Sprott Bids require that each tendering unitholder under the Sprott Bids execute a Letter of Transmittal. The Letters of Transmittal contain a form of POA, which is set out in paragraphs 12 and 13 therein. The POA provides the Respondents with the ability to execute Special Resolutions that give effect to the Merger Transactions, and to elect new boards of trustees for each of CGT and SBT. For reference, the POA included in the initial Letter of Transmittal pursuant to the Offer made on May 27, 2015 is provided in Schedule A (and was identical for both CGT and SBT).

[50] Before the November 4th Variation, the Respondents only intended to use the POAs once unitholders holding 66 2/3% or more of the outstanding units tendered their units to the Sprott Bids.

[51] The November 4th Variation amended the POAs in the Letters of Transmittal allowing the Respondents to execute and deliver written resolutions removing and replacing the current trustees of CGT/SBT effective on and after 5:00 p.m. (Toronto time) on November 19, 2015, if 50.1% or more of the CGT/SBT units were tendered to the applicable Sprott Bid. Once the written resolution was passed, it was expected that the Sprott nominees would convene a meeting of CGT/SBT unitholders to attempt to obtain the approval of the merger transaction with SPG and SPS. The language of the amendment is provided in Schedule B (and was identical for both CGT and SBT).

[52] The Applicants submitted that Sprott should not be permitted to deviate from its initial intention to obtain the support of 66 2/3% of the respective units and complete the Merger Transactions by way of a special resolution that would be completed concurrently with the replacement of the Trustees. The Applicants argued that allowing Sprott to amend the POAs to reduce the percentage of units required to effect the Merger Transactions defeats the reasonable expectations of the unitholders and is an inappropriate use of the take-over bid process.

[53] According to the Applicants, the amendment to the POAs has transformed the POAs from a technical mechanism to undertake a merger into a means for soliciting proxies to remove an incumbent board as would occur in a proxy contest. The Applicants argued that Sprott should therefore be restricted to either complying with its 66 2/3% minimum tender condition, which would result in a technical use of the POAs at the expiry of a successful bid, or should be required to abandon its offer.

[54] Further, the Applicants submitted that the timing of the November 4th Variation did not allow adequate time for unitholders to receive the respective notices of variation in the mail, review and make a reasoned judgment concerning the changes or enough time to instruct their brokers to withdraw their units from the Sprott Bids.

[55] The Respondents submitted that there was adequate notice of the November 4th Variation and that unitholders retained the option and had sufficient time to exercise withdrawal rights if they chose to do so as a result of the amendments. According to the Respondents, there is nothing coercive about the November 4th Variation and nothing precluded them from amending the POA. The Respondents emphasized that the November 4th Variation is not expanding the powers contained in the POA, it is merely changing the timing of the replacement of the trustees of CGT and SBT and the timing of the unitholder actions to approve the Merger Transactions, and, with variations required by the structure of the bid, including tax considerations, was similar in effect to a waiver of a minimum tender condition.

[56] Staff took the position that the mechanism by which the Respondents intend to effect the acquisition of all the units has indeed been altered by the November 4th Variation from one of obtaining sufficient tenders to undertake a second-step squeeze change from a 2/3 vote to one of obtaining a simple majority to remove the Trustees, replacing them with Sprott nominees who will propose the Merger Transactions at the applicable meeting of Unitholders, and using the POAs obtained in connection with the Sprott Bids to vote in favour of the Merger Transactions at the meeting.

[57] We note that with respect to approval of the merger itself, the change resulted in the unitholder approval requirement moving from a special resolution of 2/3 of the units outstanding to a vote of 2/3 of units represented at a meeting. We agree with Staff's position that the mechanism to implement the Sprott Bids has changed. We do not consider the change by itself to be coercive or abusive. However, we find that the Respondents' disclosure relating to the November 4th Variation explaining the process and risks involved with these changes is not adequate.

[58] We find that the Respondents should not be prohibited from using the amended POAs as proposed in the November 4th Variation as long as there is sufficient disclosure for unitholders to enable them to understand the steps involved and the risks associated with the decision by Sprott to replace the Trustees, propose the Merger Transactions at a meeting of unitholders and vote deposited units in favour of the Merger Transactions.

[59] Initially, the process contemplated was that upon 66 2/3 % of units tendering, the Board of Trustees of CGT and SBT would be replaced and immediately after this, the new trustees would amend the Declarations of Trust to implement the Merger Transactions.

[60] Now as a result of the November 4th Variation, only 50.1% of all outstanding units (of each of CGT and SBT) are required for a resolution to replace each board of trustees. Once the resolution is passed, then a meeting (for each of CGT and SBT) will be called where unitholders will vote on the Merger Transactions. However, following the variation, the voting on the Merger Transactions does not occur immediately after the replacement of the trustees. It is possible that there will be an undefined time period between the change of trustees and implementing the transaction. This raises the possibility that the new trustees may make other decisions during this time period, including the decision not to proceed with the transaction. In addition, now the Merger Transactions will be approved at a special meeting of unitholders of CGT and SBT. Instead of 66 2/3 % of units outstanding being required as originally contemplated, the approval threshold will be 66 2/3 % of units voted at the special meeting.

[61] Specifically, there is a lack of clarity regarding:

- The effect of the amendments to the POAs granted to Sprott and their intended use by Sprott;
- The process by which the new trustees will effect the Merger Transactions, including the increased time period between their appointment and the implementation of the Merger Transactions, and associated risks and uncertainties;
- The change in the required unitholder approval of the Merger Transactions as a result of the November 4th Variation;
- The duties of the Sprott nominees proposed to be appointed as the trustees of CGT and SBT, and specifically including the undertaking provided to the Commission at the November 18, 2015 hearing that they would resign if the Merger Transactions are not effected;
- The consequences to unitholders if the Merger Transactions fail to obtain the necessary approvals; and
- The withdrawal rights available to unitholders both before and after the appointment of the new trustees.

[62] In our view, these are all factors which may influence a unitholder's decision whether or not to tender to the Sprott Bids or for those who have already tendered, to consider whether or not to withdraw their units from the bid. Further, it is reasonable for unitholders to expect more complete disclosure concerning the situation that would prevail after the proposed removal of the boards of trustees is implemented, through to the conclusion of the Merger Transactions.

[63] At the hearing, the Respondents gave an undertaking that the new trustees put in place by the Respondents would resign if the transaction is not approved. They further explained that pursuant to the Declarations of Trust of each of CGT and SBT, once the new Sprott trustees resign a single trustee affiliated with the Administrator of CGT and SBT would remain as the sole trustee and could then appoint other new trustees. Further, in cross-examination of Mr. Wilson, we heard testimony that it is not contemplated that the new trustees would implement any changes to the Declarations of Trust of CGT and SBT other than the amendment to implement the Merger Transactions.

[64] This information was relevant to our decision. In our view, such information should be described in detail in the disclosure made to CGT and SBT unitholders.

[65] The November 4th Variation did not contain adequate disclosure about the consequences to unitholders of the amendments made therein. It is not in the public interest that investors be required to make a choice whether or not to tender to the Sprott Bids without further disclosure. We are therefore exercising our public interest jurisdiction to require adequate disclosure if the Sprott Bids are to proceed. As a result, we issued the Order as set out in paragraph 6 of these reasons.

[66] We also ordered that Sprott shall not exercise any rights in relation to the Letters of Transmittal before the expiration of 15 days from the date on which Sprott issues the notice(s) of change in information required by our Order.

[67] In our view, an additional 15 days will provide investors with adequate time to review the new disclosure and make an informed decision whether they wish to tender to the Sprott Bids or exercise their withdrawal rights, as the case may be.

[68] With respect to the Applicants' submission that the Letters of Transmittal sent by the Respondents to unitholders constitute a "communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy", we note that in the Court Decision Justice Wilton-Siegel determined that the Offers were not an illegal proxy solicitation. In our view, this issue has been disposed of by the Court and there is no need to address it further.

[69] Lastly, the parties made limited submissions regarding the application of MI 61-101, however at this time it is premature to address this subject as the special meetings for CGT and SBT are not yet scheduled.

Dated at Toronto this 18th day of December, 2015.

"Mary G. Condon"

"D. Grant Vingoe"

"Judith N. Robertson"

SCHEDULE A – EXCERPT FROM ORIGINAL LETTERS OF TRANSMITTAL

12. unless the Deposited GTU Units are withdrawn from the Offer (other than Merger Elected GTU Units deemed to be withdrawn in connection with the Offer), (i) appoints the Offeror, each director and officer of SAM GP Inc. or any other person designated by the Offeror, with full power of substitution, as the undersigned's nominee and proxy in respect of any meeting or meetings (whether annual, special or otherwise, or any adjournments or postponements thereof) of GTU Unitholders in respect of matters related to the Offer, the Merger Transaction, the nomination, election or removal of GTU Trustees, any amendments or action related to the GTU Declaration of Trust, the Administration Agreement, the Storage Agreement or any other matter that would materially and adversely impact, or otherwise frustrate, the Offer, the Merger Transaction or matters related to (including approval of) the Offer or the Merger Transaction (or substantially similar transactions), for all Deposited GTU Units; and (ii) irrevocably approves, and irrevocably constitutes, appoints and authorizes the Offeror, each director and officer of SAM GP Inc. and any other person designated by the Offeror, as the true and lawful agent, attorney and attorney-in-fact of the holder of the GTU Units with respect to the Deposited GTU Units, with full power of substitution (such power of attorney, being coupled with an interest, being irrevocable), in the name of and on behalf of the undersigned to: (A) requisition and call (and receive and execute all forms, proxies, securityholder proposals and other documents and take other steps needed to requisition and call) any meeting or meetings (whether annual, special or otherwise, or any adjournments or postponements thereof) of GTU Unitholders; or (B) exercise any rights of redemption under the GTU Declaration of Trust in respect of such Deposited GTU Units provided such redemption would occur at a redemption price equal to 100% of the NAV of the Deposited GTU Unit and such redemption is only consummated following the Offeror having taken up and paid for such Deposited GTU Units. Upon such appointment, all prior proxies and other authorizations (including, without limitation, all appointments of any agent, attorney or attorney-in-fact) or consents given by the undersigned with respect to the Deposited GTU Units will be revoked and no subsequent proxies or other authorizations or consents may be given by such person with respect thereto (other than with respect to the powers in 13 and 19 below);

13. in addition to, and without derogating from the power provided to the Offeror, each director and officer of SAM GP Inc. and any other person designated by the Offeror under 12 above, effective from and after 4:58p.m. (Toronto time) on the Expiry Date, irrevocably approves, and irrevocably constitutes and appoints and authorizes the Offeror, each director and officer of SAM GP Inc. and any other persons designated by the Offeror in writing, as the true and lawful agents, attorneys and attorneys-in-fact of the holder of the GTU Units with respect to the Deposited GTU Units, with full power of substitution (such power of attorney, being coupled with an interest, being irrevocable), in the name of and on behalf of the undersigned to vote, execute and deliver any and all instruments of proxy, authorizations, requisitions, resolutions (in writing or otherwise and including any counterparts thereof), consents and directions, in form and substance satisfactory to the Offeror approving, and in respect of, the special resolutions substantially as set forth in Appendix A hereto;

SCHEDULE B – EXCERPT FROM AMENDED LETTERS OF TRANSMITTAL

**Italics indicate amendments*

12. unless the Deposited GTU Units are withdrawn from the Offer *(in which case, for greater certainty, the power in this section 12 shall terminate),* (i) appoints the Offeror, each director and officer of SAM GP Inc. or any other person designated by the Offeror, with full power of substitution, as the undersigned's nominee and proxy in respect of any meeting or meetings (whether annual, special or otherwise, or any adjournments or postponements thereof) of GTU Unitholders in respect of matters related to the Offer, the Merger Transaction, the nomination, election or removal of GTU Trustees, any amendments or action related to the GTU Declaration of Trust, the Administration Agreement, the Storage Agreement or any other matter that would materially and adversely impact, or otherwise frustrate, the Offer, the Merger Transaction or matters related to (including approval of) the Offer or the Merger Transaction (or substantially similar transactions), for all Deposited GTU Units; and (ii) irrevocably approves, and irrevocably constitutes, appoints and authorizes the Offeror, each director and officer of SAM GP Inc. and any other person designated by the Offeror, as the true and lawful agent, attorney and attorney-in fact of the holder of the GTU Units with respect to the Deposited GTU Units, with full power of substitution (such power of attorney, being coupled with an interest, being irrevocable), in the name of and on behalf of the undersigned to: (A) requisition and call (and receive and execute all forms, proxies, securityholder proposals and other documents and take other steps needed to requisition and call) any meeting or meetings (whether annual, special or otherwise, or any adjournments or postponements thereof) of GTU Unitholders; (B) exercise any rights of redemption under the GTU Declaration of Trust in respect of such Deposited GTU Units provided such redemption would occur at a redemption price equal to 100% of the NAV of the Deposited GTU Unit and such redemption is only consummated following the Offeror having taken up and paid for such Deposited GTU Units; *and (C) effective from and after 5:00p.m. (Toronto time) on November 19, 2015, execute and deliver resolutions in writing (including counterparts thereof), consents and directions, in form and substance satisfactory to the Offeror, removing the current GTU Trustees (other than the Administrator's Nominees) and replacing such individuals with Sprott Nominees.* Upon such appointment, all prior proxies and other authorizations (including, without limitation, all appointments of any agent, attorney or attorney-in-fact) or consents given by the undersigned with respect to the Deposited GTU Units will be revoked and no subsequent proxies or other authorizations or consents may be given by such person with respect thereto (other than with respect to the powers in 13 and 19 below);

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Carrie Arran Resources Inc.	3 December 2015	16 December 2015	16 December 2015	
Carrington Acquisition Corp.	3 December 2015	16 December 2015	16 December 2015	
Enseco Energy Services Corp.	8 December 2015	21 December 2015	21 December 2015	
First Nickel Inc.	4 December 2015	16 December 2015	16 December 2015	
Global SeaFarms Corporation	9 December 2015	21 December 2015	21 December 2015	
Hi Ho Silver Resources Inc.	17 December 2015	30 December 2015		
Iona Energy Inc.	9 December 2015	21 December 2015	21 December 2015	
LeoNovus Inc.	7 December 2015	18 December 2015		21 December 2015
Newnote Financial Corp.	17 December 2015	30 December 2015		
PDC Biological Health Group Corporation	17 December 2015	30 December 2015		
Regal Resources Inc.	17 December 2015	30 December 2015		
Solimar Energy Limited	8 December 2015	21 December 2015	21 December 2015	
Viking Gold Exploration Inc.	8 December 2015	21 December 2015	21 December 2015	
Waldron Energy Corporation	3 December 2015	16 December 2015	16 December 2015	
ZaZa Energy Corporation	17 December 2015	30 December 2015		

4.2.1 Temporary, Permanent & Rescinding Management 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
Pacific Coal Resources Ltd.	01 December 2015	14 December 2015	14 December 2015	16 December 2015	

4.2.2 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
BitRush Corp.	13 November 2015	25 November 2015	25 November 2015		
Boyuan Construction Group, Inc.	02 October 2015	14 October 2015	14 October 2015		

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Enerdynamic Hybrid Technologies Corp.	4 November 2015	16 November 2015	16 November 2015		
Enerdynamic Hybrid Technologies Corp.	22 October 2015	4 November 2015	4 November 2015		
Enerdynamic Hybrid Technologies Corp.	15 October 2015	28 October 2015	28 October 2015		
Nobilis Health Corp.	23 November 2015	4 December 2015	4 December 2015		
Pacific Coal Resources Ltd.	01 December 2015	14 December 2015	14 December 2015	16 December 2015	

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.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).

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Canadian National Railway Company
Principal Regulator - Quebec
Type and Date:
Preliminary Shelf Prospectus dated December 14, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
CAD$6,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2429097

Issuer Name:
Canoe 2016 Flow-Through LP - CDE Units
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated December 16, 2015
NP 11-202 Receipt dated December 16, 2015
Offering Price and Description:
Maximum Offering: $40,000,000.00
Minimum Offering: $5,000,000.00
Subscription Price – $25.00 per CDE Unit
Minimum Subscription – $5,000 (200 Units) for CDE Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
Promoter(s):
Canoe 2016 General Partner Corp.
Canoe Financial LP
Project #2429807

Issuer Name:
Canoe 2016 Flow-Through LP - CEE Units
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated December 16, 2015
NP 11-202 Receipt dated December 16, 2015
Offering Price and Description:
Maximum Offering: $20,000,000.00
Minimum Offering: $5,000,000.00
Subscription Price: $25.00 per CEE Unit
Minimum Subscription: $5,000 - 200 Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
Promoter(s):
Canoe 2016 General Partner Corp.
Canoe Financial LP
Project #2429808

Issuer Name:
CI Financial Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 15, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
$1,500,000,000.00:
Debt Securities (unsecured)
Subscription Receipts
Preference Shares
Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2429398

Issuer Name:
CMP 2016 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 16, 2015
NP 11-202 Receipt dated December 17, 2015
Offering Price and Description:
Maximum Offering: $30,000,000.00 - 30,000 Limited Partnership Units
Minimum Offering: $5,000,000.00 - 5,000 Limited Partnership Units
Price: $1,000 per Unit
Minimum Subscription: $5,000 - Five Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Dundee Securities Ltd.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Industrial Alliance Securities Inc.
Raymond James Ltd.
Promoter(s):
Goodman GP Ltd.
Goodman & Company, Investment Counsel Inc.
Project #2429916

Issuer Name:
Dynamic Premium Yield Class
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 14, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
Series A, F, FH, FT, H and T Shares
Underwriter(s) or Distributor(s):
1832 Asset Management L.P.
1832 Asset Management L.P.
Promoter(s):
1832 Asset Management L.P.
Project #2429279

Issuer Name:
ESSA Pharma Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated December 15, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
US$100,000,000.00 - Common Shares, Warrants, Units, Subscription Receipts, Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2429485

Issuer Name:
Fidelity American Balanced Currency Neutral Fund
Fidelity Global Monthly Income Currency Neutral Fund
Fidelity Strategic Income Currency Neutral Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 18, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
Series A, B, F, E1, P1, T5, T8, S5, S8, F5 and F8 Units
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Promoter(s):
Fidelity Investments Canada ULC
Project #2430583

Issuer Name:
GreenSpace Brands Inc. (formerly Aumento IV Capital Corporation)
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 16, 2015
NP 11-202 Receipt dated December 16, 2015
Offering Price and Description:
$20,000,000.00 - * Common Shares
Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Cannaccord Genuity Corp.
GMP Securities L.P.
Promoter(s):
-
Project #2429700

Issuer Name:
Lydian International Limited
Principal Regulator - Ontario
Type and Date:
Amendment dated December 14, 2015 to Preliminary Short Form Prospectus dated December 7, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
$* - * Subscription Receipts, each representing the right to receive one Ordinary Share
Price: $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
GMP Securities L.P.
National Bank Financial Inc.
Sprott Private Wealth L.P.
Promoter(s):
-
Project #2427228

Issuer Name:
Maple Leaf Short Duration 2016 Flow-Through Limited Partnership - National Class
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 17, 2015
NP 11-202 Receipt dated December 17, 2015
Offering Price and Description:
Maximum Offering: $10,000,000.00 - 400,000 Maple Leaf Short Duration 2016 Flow-Through Limited Partnership – National Class Units
Minimum Offering: $2,500,000.00 - 100,000 Maple Leaf Short Duration 2016 Flow-Through Limited Partnership – National Class Units
Price per Unit: $25.00
Minimum Purchase: $5,000 - 200 Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
GMP Securiites L.P.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Manulife Securities Incorporated
Raymond James Ltd.
Industrial Alliance Securities Inc.
Dundee Securiites Ltd.
Global Securities Corporation
Laurentian Bank Securities Inc.
Promoter(s):
Maple Leaf Short Duration Holdings Ltd.
Maple Leaf Short Duration 2016 Flow-Through Management Corp.
Project #2430180

Issuer Name:
Maple Leaf Short Duration 2016 Flow-Through Limited Partnership - Quebec Class
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 17, 2015
NP 11-202 Receipt dated December 17, 2015
Offering Price and Description:
Maximum Offering: $10,000,000.00 - 400,000 Maple Leaf Short Duration 2016 Flow-Through Limited Partnership - QuebecClass Units
Minimum Offering: $2,500,000.00 - 100,000 Maple Leaf Short Duration 2016 Flow-Through Limited Partnership – Quebec Class Units
Price per Unit: $25.00
Minimum Purchase: $5,000 - 200 Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
GMP Securiites L.P.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Manulife Securities Incorporated
Raymond James Ltd.
Industrial Alliance Securities Inc.
Dundee Securiites Ltd.
Global Securities Corporation
Laurentian Bank Securities Inc.
Promoter(s):
Maple Leaf Short Duration Holdings Ltd.
Maple Leaf Short Duration 2016 Flow-Through Management Corp.
Project #2430183

Issuer Name:
Meritage Global Aggressive Growth Class Portfolio
Meritage Global Aggressive Growth Portfolio
Meritage Global Conservative Portfolio
Meritage Global Growth Class Portfolio
Meritage Global Growth Portfolio
Meritage Global Moderate Portfolio
Meritage Tactical ETF Balanced Portfolio
Meritage Tactical ETF Growth Portfolio
Meritage Tactical ETF Moderate Portfolio
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectus dated December 15, 2015
NP 11-202 Receipt dated December 16, 2015
Offering Price and Description:
Advisor Series, F Series, F5 Series, O Series and T5 Series
Underwriter(s) or Distributor(s):
-
Promoter(s):
National Bank Investments Inc.
Project #2429357

Issuer Name:
NCE Diversified Flow-Through (16) Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 17, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
Maximum Offering: $ * - * Limited Partnership Units
Minimum Offering: $5,000,000 - 200,000 Limited Partnership Units
Subscription Price: $25.00 per Unit
Minimum Subscription: 200 Units
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Bank Financial Inc.
TD Securities Inc.
GMP Securities L.P.
Manulife Securities Incorporated
Canaccord Genuity Corp.
Desjardins Securities Inc.
Raymond James Ltd.
Dundee Securities Ltd.
Industrial Alliance Securities Inc.
Laurentian Bank Securities Inc.
Mackie Research Capital Corporation
Promoter(s):
Petro Assets Inc.
Project #2430549

Issuer Name:
Royal Bank of Canada
Principal Regulator - Quebec
Type and Date:
Preliminary Shelf Prospectus dated December 17, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
$25,000,000,000.00
Debt Securities (Unsubordinated Indebtedness)
Debt Securities (Subordinated Indebtedness)
First Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2430385

Issuer Name:
TransCanada Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Shelf Prospectus dated December 16, 2015
NP 11-202 Receipt dated December 16, 2015
Offering Price and Description:
$2,000,000,000.00 - Common Shares, First Preferred Shares, Second Preferred Shares, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2429893

Issuer Name:
AGF Canadian Bond Fund
AGF Global Value Class
AGF Global Value Fund
AGF International Stock Class
Principal Regulator - Ontario
Type and Date:
Amendment #5 dated December 1, 2015 to Final Simplified Prospectus dated April 17, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
Mutual Fund Series, Series D, Series F, Series O and Series Q, Series T and Series V Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
AGF Investments Inc.
Project #2319602

Issuer Name:
B.E.S.T. Total Return Fund Inc. (formerly RoyNat Canadian Diversified Fund Inc.)
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 17, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
Class A Shares @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2417158

Issuer Name:
Balanced Income Portfolio
Conservative Income Portfolio
Enhanced Income Portfolio
Imperial Canadian Bond Pool
Imperial Canadian Diversified Income Pool
Imperial Canadian Dividend Income Pool
Imperial Canadian Equity Pool
Imperial Emerging Economies Pool
Imperial Equity High Income Pool
Imperial Global Equity Income Pool
Imperial International Bond Pool
Imperial International Equity Pool
Imperial Money Market Pool
Imperial Overseas Equity Pool
Imperial Short-Term Bond Pool
Imperial U.S. Equity Pool
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated December 16, 2015
NP 11-202 Receipt dated December 17, 2015
Offering Price and Description:
Class A, T3, T4, T5 and T6 Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Canadian Imperial Bank of Commerce
Project #2410126

Issuer Name:
Enbridge Income Fund Holdings Inc.
Principal Regulator - Alberta
Type and Date:
Final Shelf Prospectus dated December 14, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
$2,500,000,000.00 - COMMON SHARES
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2427075

Issuer Name:
Firm Capital Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 15, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
$20,000,000.00 - 5.50% Convertible Unsecured Subordinated Debentures due December 31, 2022
PRICE: $1,000 per Debenture
Underwriter(s) or Distributor(s):
TD Securities Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Canaccord Genuity Corp.
CIBC World Markets Inc.
Dundee Securities Ltd.
GMP Securities L.P.
Desjardins Securities Inc.
Promoter(s):
-
Project #2426794

Issuer Name:
George Weston Limited
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 16, 2015
NP 11-202 Receipt dated December 17, 2015
Offering Price and Description:
$1,000,000,000.00 - Debt Securities (unsecured), Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2427856

Issuer Name:
Hydro One Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 14, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
$3,500,000,000.00 - Medium Term Notes (unsecured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Casgrain & Company Limited
CIBC World Markets Inc.
Desjardins Securities Inc.
Laurentian Bank Securities Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #2426640

Issuer Name:
Just Energy Group Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 14, 2015
NP 11-202 Receipt dated December 15, 2015
Offering Price and Description:
$1,000,000,000.00 - Common Shares, Preferred Shares, Subscription Receipts, Warrants, Debt Securities, Share, Purchase Contracts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2426390

Issuer Name:
Manulife Financial Corporation
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 17, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
$10,000,000,000.00 - Debt Securities, Class A Shares, Class B Shares, Class 1 Shares, Common Shares, Subscription, Receipts, Warrants, Share Purchase Contracts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2428432

Issuer Name:
Marquest Mutual Funds Inc. - Energy Series Fund
Marquest Mutual Funds Inc. - Explorer Series Fund
Marquest Mutual Funds Inc. - Flex Dividend and Income Growth Series Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated December 18, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
Series A/Rollover, Series A/Regular and Series F shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2415333

Issuer Name:
Russell Fixed Income Pool
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated December 11, 2015 to Final Simplified Prospectus dated June 30, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
Series A, B, B-3, E, F, F-3, O, p, US Dollar Hedged Series B, US Dollar Hedged Series F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Russell Investments Canada Limited
Russell Investments Canada Limited
Promoter(s):
Russell Investments Canada Limited
Project #2357197

Issuer Name:
The Manufacturers Life Insurance Company
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 17, 2015
NP 11-202 Receipt dated December 18, 2015
Offering Price and Description:
$5,000,000,000.00 - Debt Securities Fully and unconditionally guaranteed by Manulife Financial Corporation
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2428428

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	Castellum Capital Management Inc.	Portfolio Manager	December 17, 2015
Voluntary Surrender	Fox-Davies Capital Inc.	Exempt Market Dealer	December 17, 2015
Voluntary Surrender	Marchés des Capitaux Avenue BNB Inc. / Avenue Capital Markets BNB Inc.	Exempt Market Dealer	December 17, 2015
New Registration	Frame Global Asset Management Limited	Portfolio Manager	December 18, 2015
Suspension Pursuant to Section 29(1) of the Securities Act	Jacob Securities Inc.	Investment Dealer	December 17, 2015
Consent to Suspension (Pending Surrender)	BMO Harris Financial Advisors, Inc.	Portfolio Manager	December 18, 2015

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.3 Clearing Agencies

13.3.1 CDCC – Amendments to the Default Manual and to Sections A-308 and A-401 of the Rules of the Canadian Derivatives Clearing Corporation – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

AMENDMENTS TO THE DEFAULT MANUAL AND TO SECTIONS A-308 AND A-401 OF THE RULES OF THE CANADIAN DERIVATIVES CLEARING CORPORATION

The Ontario Securities Commission is publishing for public comment the proposed amendments to the default manual and sections of CDCC rules (Sections A-308, A-401). The purpose of the proposed amendments is to clarify the language of its Rules and Default Manual governing the default management process, in accordance with the requirement of Principle 1 – Legal Certainty under the PFMIs.

The comment period ends January 22, 2016.

A copy of the CDCC Notice is published on our website at http://www.osc.gov.on.ca.

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Index

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